

The **NORTH CAROLINA REGISTER**

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ISSUE DATE: JANUARY 15, 1992

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INFORMATION ABOUT THE NORTH CAROLINA REGISTER AND ADMINISTRATIVE CODE

NORTH CAROLINA REGISTER

The *North Carolina Register* is published bi-monthly and contains information relating to agency, executive, legislative and judicial actions required by or affecting Chapter 150B of the General Statutes. All proposed, administrative rules and amendments filed under Chapter 150B must be published in the Register. The Register will typically comprise approximately fifty pages per issue of legal text.

State law requires that a copy of each issue be provided free of charge to each county in the state and to various state officials and institutions. The *North Carolina Register* is available by yearly subscription at a cost of one hundred and five dollars (\$105.00) for 24 issues.

Requests for subscriptions to the *North Carolina Register* should be directed to the Office of Administrative Hearings, P. O. Drawer 27447, Raleigh, N. C. 27611-7447, Attn: *Subscriptions*.

ADOPTION, AMENDMENT, AND REPEAL OF RULES

An agency intending to adopt, amend, or repeal a rule must first publish notice of the proposed action in the *North Carolina Register*. The notice must include the time and place of the public hearing; a statement of how public comments may be submitted to the agency either at the hearing or otherwise; the text of the proposed rule or amendment; a reference to the Statutory Authority for the action and the proposed effective date.

The Director of the Office of Administrative Hearings has authority to publish a summary, rather than the full text, of any **amendment** which is considered to be too lengthy. In such case, the full text of the rule containing the proposed amendment will be available for public inspection at the Rules Division of the Office of Administrative Hearings and at the office of the promulgating agency.

Unless a specific statute provides otherwise, at least 30 days must elapse following publication of the proposal in the *North Carolina Register* before the agency may conduct the required public hearing and take action on the proposed adoption, amendment or repeal.

When final action is taken, the promulgating agency must file any adopted or amended rule for approval by the Administrative Rules Review Commission. Upon approval of ARRC, the adopted or amended rule must be filed with the Office of Administrative Hearings. If it differs substantially from the proposed form published as part of the public notice, upon request by the agency, the adopted version will again be published in the *North Carolina Register*.

A rule, or amended rule cannot become effective earlier than the first day of the second calendar month after the adoption is filed with the Office of Administrative Hearings for publication in the NCAC.

Proposed action on rules may be withdrawn by the promulgating agency at any time before final action is taken by the agency.

TEMPORARY RULES

Under certain conditions of an emergency nature, some agencies may issue temporary rules. A temporary rule becomes effective when adopted and remains in

effect for the period specified in the rule or 180 days whichever is less. An agency adopting a temporary rule must begin normal rule-making procedures on the permanent rule at the same time the temporary rule is adopted.

NORTH CAROLINA ADMINISTRATIVE CODE

The North Carolina Administrative Code (NCAC) is a compilation and index of the administrative rules of 25 state agencies and 38 occupational licensing boards. The NCAC comprises approximately 15,000 letter size single spaced pages of material of which approximately 35% is changed annually. Compilation and publication of the NCAC is mandated by G.S. 150B-63(b).

The Code is divided into Titles and Chapters. Each state agency is assigned a separate title which is further broken down by chapters. Title 21 is designated for occupational licensing boards.

The NCAC is available in two formats.

- (1) Single pages may be obtained at a minimum cost of two dollars and 50 cents (\$2.50) for one page or less, plus fifteen cents (\$0.15) per each additional page.
- (2) The full publication consists of 53 volumes totaling in excess of 15,000 pages. It is supplemented monthly with replacement pages. A one year subscription to the full publication including supplements can be purchased for seven hundred and fifty dollars (\$750.00). Individual volumes may also be purchased with supplement service. Renewal subscriptions for supplements to the initial publication available.

Requests for pages of rules or volumes of the NCAC should be directed to the Office of Administrative Hearings.

NOTE

The foregoing is a generalized statement of the procedures to be followed. For specific statutory language it is suggested that Articles 2 and 5 of Chapter 150B of the General Statutes be examined carefully.

CITATION TO THE NORTH CAROLINA REGISTER

The *North Carolina Register* is cited by volume, issue number and date. **1:1 NCR 101-201, April 1, 1986** refers to Volume 1, Issue 1, pages 101 through 201 of the *North Carolina Register* issued on April 1, 1986.

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NORTH CAROLINA REGISTER



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NORTH CAROLINA REGISTER
Publication Schedule
(October 1991 - December 1992)

Issue Date	Last Day for Filing	Last Day for Electronic Filing	Earliest Date for Public Hearing	Earliest Date for Adoption by Agency	Last Day to Submit to RRC	* Earliest Effective Date
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10 15 91	09 24 91	10 01 91	10 30 91	11 14 91	11 20 91	01 02 92
11 01 91	10 11 91	10 18 91	11 16 91	12 01 91	12 20 91	02 03 92
11 15 91	10 24 91	10 31 91	11 30 91	12 15 91	12 20 91	02 03 92
12 02 91	11 07 91	11 14 91	12 17 91	01 01 92	01 20 92	03 02 92
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01 02 92	12 09 91	12 16 91	01 17 92	02 01 92	02 20 92	04 01 92
01 15 92	12 20 91	12 31 91	01 30 92	02 14 92	02 20 92	04 01 92
02 03 92	01 10 92	01 17 92	02 18 92	03 04 92	03 20 92	05 01 92
02 14 92	01 24 92	01 31 92	02 29 92	03 15 92	03 20 92	05 01 92
03 02 92	02 10 92	02 17 92	03 17 92	04 01 92	04 20 92	06 01 92
03 16 92	02 24 92	03 02 92	03 31 92	04 15 92	04 20 92	06 01 92
04 01 92	03 11 92	03 18 92	04 16 92	05 01 92	05 20 92	07 01 92
04 15 92	03 25 92	04 01 92	04 30 92	05 15 92	05 20 92	07 01 92
05 01 92	04 10 92	04 17 92	05 16 92	05 31 92	06 20 92	08 03 92
05 15 92	04 24 92	05 01 92	05 30 92	06 14 92	06 20 92	08 03 92
06 01 92	05 11 92	05 18 92	06 16 92	07 01 92	07 20 92	09 01 92
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09 01 92	08 11 92	08 18 92	09 16 92	10 01 92	10 20 92	12 01 92
09 15 92	08 25 92	09 01 92	09 30 92	10 15 92	10 20 92	12 01 92
10 01 92	09 10 92	09 17 92	10 16 92	10 31 92	11 20 92	01 04 93
10 15 92	09 24 92	10 01 92	10 30 92	11 14 92	11 20 92	01 04 93
11 02 92	10 12 92	10 19 92	11 17 92	12 02 92	12 20 92	02 01 93
11 16 92	10 23 92	10 30 92	12 01 92	12 16 92	12 20 92	02 01 93
12 01 92	11 06 92	11 13 92	12 16 92	12 31 92	01 20 93	03 01 93
12 15 92	11 24 92	12 01 92	12 30 92	01 14 93	01 20 93	03 01 93

* The "Earliest Effective Date" is computed assuming that the agency follows the publication schedule above, that the Rules Review Commission approves the rule at the next calendar month meeting after submission, and that RRC delivers the rule to the Codifier of Rules five (5) business days before the 1st business day of the next calendar month.

EXECUTIVE ORDER

EXECUTIVE ORDER NUMBER 158 REUBLISHING AND AMENDING EXECUTIVE ORDER NO. 137

Section 1: Executive Order No. 137, as amended by Executive Order No. 138, is republished and further amended, as follows:

1. The words, "and the Consolidated Judicial Retirement System," shall be inserted following the words, "Teachers' and State Employees Retirement System," wherever the latter shall appear, except in Section 2.
2. In Section 2, the words, "4.49 % of the compensation paid by the State to the Consolidated Judicial Retirement System," shall be inserted following the words, "Teachers' and State Employees' Retirement System."
3. The word "two" shall be inserted before the word "System" in the fourth line of the third paragraph and the word "System" shall be made plural.
4. Section 3:
 - (a) shall be renumbered "Section 4;" and

- (b) shall have a period put following the word "rescinded;" and

- (c) the rest of the section shall be deleted.

5. A new "Section 3" shall be inserted following "Section 2" and before the new "Section 4," as follows:

"Section 3. To the extent necessary after June 30, 1991, the Office of State Budget and Management may make corrections to State contributions withheld in order to accurately account for funds managed in Section 2, hercof."

Section 2: Executive Order No. 137, as amended by Executive Order No. 138, and as amended here, is republished in its entirety.

Section 3: This Executive Order is effective immediately.

Done in Raleigh, North Carolina, this 17th day of December, 1991.

VOTING RIGHTS ACT FINAL DECISION LETTERS

[G.S. 120-30.9H, effective July 16, 1986, requires that all letters and other documents issued by the Attorney General of the United States in which a final decision is made concerning a "change affecting voting" under Section 5 of the Voting Rights Act of 1965 be published in the North Carolina Register.]

U.S. Department of Justice
Civil Rights Division

JRD:11T:TCR:tlb
DJ 166-012-3
91-3872

Voting Section
P.O. Box 66128
Washington, D.C. 20035-6128

December 10, 1991

Jesse L. Warren, Esq.
City Attorney
P. O. Box 3136
Greensboro, North Carolina 27402-3136

Dear Mr. Warren:

This refers to an annexation (Ordinance No. 91-124) and the designation of the annexed area to an election district for the City of Greensboro in Guilford County, North Carolina, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973c. We received your submission on October 16, 1991.

The Attorney General does not interpose any objection to the specified change. However, we note that Section 5 expressly provides that the failure of the Attorney General to object does not bar subsequent litigation to enjoin the enforcement of the change. See the Procedures for the Administration of Section 5 (28 C.F.R. 51.41).

Sincerely,

John R. Dunne
Assistant Attorney General
Civil Rights Division

By:

Gerald W. Jones
Chief, Voting Section

VOTING RIGHTS ACT FINAL DECISION LETTERS

U.S. Department of Justice
Civil Rights Division

JRD:SSC:TGL:gmh
DJ 166-012-3
91-3962

Voting Section
P.O. Box 66128
Washington, D.C. 20035-6128

December 23, 1991

Robert C. Cogswell, Jr., Esq.
City Attorney
P. O. Box 1513
Fayetteville, North Carolina 28302-1513

Dear Mr. Cogswell:

This refers to the 1991 redistricting plan for the City of Fayetteville in Cumberland County, North Carolina, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973c. We received your submission on October 23, 1991.

The Attorney General does not interpose any objection to the specified change. However, we note that Section 5 expressly provides that the failure of the Attorney General to object does not bar subsequent litigation to enjoin the enforcement of the change. See the Procedures for the Administration of Section 5 (28 C.F.R. 51.41).

Sincerely,

John R. Dunne
Assistant Attorney General
Civil Rights Division

By:

Gerald W. Jones
Chief, Voting Section

VOTING RIGHTS ACT FINAL DECISION LETTERS

U.S. Department of Justice
Civil Rights Division

JRD:RBJ:NT:tlb:gmh
DJ 166-012-3
91-4016

Voting Section
P.O. Box 66128
Washington, D.C. 20035-6128

December 24, 1991

DeWitt F. McCarley, Esq.
City Attorney
P. O. Box 7207
Greenville, North Carolina 27835-7207

Dear Mr. McCarley:

This refers to the redistricting of the municipal election districts and the increase in the number of councilmembers from four to six for the City of Greenville in Pitt County, North Carolina, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973c. We received your submission on October 28, 1991.

The Attorney General does not interpose any objection to the specified changes. However, we note that Section 5 expressly provides that the failure of the Attorney General to object does not bar subsequent litigation to enjoin the enforcement of the changes. See the Procedures for the Administration of Section 5 (28 C.F.R. 51.41).

Sincerely,

John R. Dunne
Assistant Attorney General
Civil Rights Division

By:

Gerald W. Jones
Chief, Voting Section

VOTING RIGHTS ACT FINAL DECISION LETTERS

U.S. Department of Justice
Civil Rights Division

JRD:MAP:TGL:tlb:gmh
DJ 166-012-3
91-4125

Voting Section
P.O. Box 66128
Washington, D.C. 20035-6128

December 27, 1991

Robert C. Cogswell, Jr., Esq.
City Attorney
P. O. Box 1513
Fayetteville, North Carolina 28302-1513

Dear Mr. Cogswell:

This refers to nine annexations (Ordinance Nos. 91-4-339, 91-5-340, 91-5-341, 91-5-342, 91-5-343, 91-6-344, 91-6-345, 91-6-346, and 91-7-347) and the designation of the annexed areas to single-member districts for the City of Fayetteville in Cumberland County, North Carolina, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973c. We received your submission on November 4, 1991.

The Attorney General does not interpose any objection to the specified changes. However, we note that Section 5 expressly provides that the failure of the Attorney General to object does not bar subsequent litigation to enjoin the enforcement of the changes. See the Procedures for the Administration of Section 5 (28 C.F.R. 51.41).

Sincerely,

John R. Dunne
Assistant Attorney General
Civil Rights Division

By:

Gerald W. Jones
Chief, Voting Section

TITLE 11 - DEPARTMENT OF INSURANCE

Notice is hereby given in accordance with G.S. 150B-21.2 that the N.C. Department of Insurance intends to amend rule(s) cited as 11 NCAC 10 .1102, .1107, .1604; adopt rule(s) cited as 11 NCAC 10 .0105; and repeal rule(s) cited as 11 NCAC 10 .0402 - .0403, .0704 - .0707, .0715 - .0716.

The proposed effective date of this action is April 1, 1992.

The public hearing will be conducted at 10:00 a.m. on February 11, 1992 at the 3rd Floor Hearing Room, Dobbs Building, 430 N. Salisbury Street, Raleigh, N.C. 27611.

Reason for Proposed Action: To conform with legislation enacted during the 1991 General Assembly.

Comment Procedures: Written comments may be sent to Charles Swindell, P.O. Box 26387, Raleigh, N.C. 27611. Oral presentations may be made at the public hearing. Anyone having questions should call Charles Swindell at (919) 733-3368, or Ellen Sprekel at (919) 733-4529.

CHAPTER 10 - PROPERTY AND CASUALTY DIVISION

SECTION .0100 - GENERAL PROVISIONS

.0105 MANUSCRIPT OR INDIVIDUAL RISK FILINGS

(a) Within 60 days after the inception date of a manuscript or individual risk policy, the insurer must submit to the Department of Insurance, Property and Casualty Division:

- (1) A full and complete copy of the policy. Any form or endorsement not previously filed with the Department and approved for use must be specifically identified.
 - (2) A statement describing how the rates were calculated.
 - (3) A certification that the rates are not excessive, inadequate, nor unfairly discriminatory.
 - (4) A statement explaining why a manuscript or individual risk filing was needed.
 - (5) The appropriate filing fee.
- (b) The Commissioner may require such other information as he deems to be necessary for a review of filings made under this Rule.

(c) All filings made under this Rule must be refiled whenever a change occurs in or to the policy or upon the expiration date of the policy, whichever occurs first. Continuous policies are not permitted.

Statutory Authority G.S. 58-2-40; 58-6-5; 58-41-50; 58-43-5.

SECTION .0400 - FIRE AND CASUALTY RATING ORGANIZATIONS

.0402 RATE BUREAU: ESSENTIAL COVERAGES

Every insurer licensed for the essential coverages shall be a member of the North Carolina Rate Bureau. Essential coverages include, but are not limited to:

- (1) workers' compensation;
- (2) private passenger automobile (non-fleet) liability insurance;
- (3) private passenger automobile (non-fleet) theft and physical damage insurance;
- (4) farmowner's insurance (residential real property and contents);
- (5) homeowner's insurance;
- (6) dwelling and contents (not more than four housing units) insurance;
- (7) mobile homeowner's insurance.

Statutory Authority G.S. 58-9; 58-124.17.

.0403 RATING ORGANIZATIONS: NON-ESSENTIAL COVERAGES

For rates and policy forms for other than those coverages stated in Rule .0402 of this Section, an admitted insurer shall subscribe to or be a member of any rate-making organization licensed in North Carolina in accordance with 11 NCAC 10 .0800 or it shall make filings on its own behalf directly with the commissioner.

Statutory Authority G.S. 58-9; 58-54; 58-131.41; 58-131.56.

SECTION .0700 - INSURANCE IN UNLICENSED FOREIGN AND ALIEN COMPANIES

.0704 FORM SL: REPRESENT A SURPLUS LINES INSURER

Form SL, "Application for License to Represent a Surplus Lines Insurer", is submitted to the department by a prospective agent for license to procure insurance from non-admitted companies. Information to be entered on the application shall include, but not be limited to: the agent's name and address; a statement certifying his North Carolina citizenship; and his credentials for the required bond.

Statutory Authority G.S. 58-433.

**.0705 FORM SL-1: LICENSE RENEWAL
APPL./LICENSE REPRSENT/
SURPLUS LINES CO.**

A "Renewal Application to Represent a Surplus Lines Company" (SL-1) is provided to agents pursuant to G.S. 58-433 stating the requirements for renewing the license. The notarized form shall include, but is not limited to, name, address a review of the requirements for procuring insurance from surplus lines insurers, and the signature of the applicant.

Statutory Authority G.S. 58-433; 58-480.

.0706 FORM B: BOND

The bond required by G.S. 58-433 shall be a surety bond in a surety company licensed in this state with the commissioner as obligee.

Statutory Authority G.S. 58-433.

.0707 AGENTS LICENSE FORM

The agents license form is used to certify that an agent has been duly authorized by the commissioner to procure insurance from a company not licensed in this state. The information required on the form shall include, but not be limited to, the name of the agent, the authorization given, and signature of the commissioner.

Statutory Authority G.S. 58-53.1 through 58-53.3.

**.0715 ADJUSTMENT OF LOSSES FOR
UNAUTHORIZED COMPANY**

It shall be the policy of this department that it is the responsibility of each adjuster to determine that the insurance company is licensed in this state or that the policy or policies have been authorized pursuant to G.S. 58-427 before proceeding on the adjustment of a loss.

Statutory Authority G.S. 58-51.

**.0716 FORM SL-3: CORPORATE LICENSE
APPLICATION**

A corporation shall apply using SL-3, "Corporate Surplus Lines Application" to apply for a Corporate Surplus Lines License pursuant to G.S. 58-433. The form shall include, but is not limited to, name, address, and other identifying information of the corporation as well as information about shareholders and individual surplus lines licensees who will be acting on behalf of the corporate licensee. The form is executed by two or more corporate officers on behalf of the corporation and the corporate seal affixed thereto.

Statutory Authority G.S. 58-433.

SECTION .1100 - RATE FILINGS

.1102 APPLICABILITY

The followings Subparagraphs indicate which Rules of this Section apply to a particular filing. Note that all rate filings must be submitted separately and under independent cover from form filings.

- (1) Rule .1103 applies to all workers' compensation insurance rate filings made by the North Carolina Rate Bureau.
- (2) Rule .1104 applies to all nonfleet private passenger automobile insurance rate filings made by the North Carolina Rate Bureau or the North Carolina Reinsurance Facility.
- (3) Rule .1105 applies to all rate filings made by the North Carolina Rate Bureau other than those involving workers' compensation insurance or nonfleet private passenger automobile insurance.
- (4) Rule .1106 applies to all filings for deviations from the rates of the North Carolina Rate Bureau.
- (5) Rule .1107 applies to all rate filings (including those filings derived from filings of licensed rating organizations), other than those involving:
 - (a) Lines of insurance under the jurisdiction of the North Carolina Rate Bureau.
 - (b) Nonfleet private passenger automobile insurance rates for the North Carolina Reinsurance Facility.
- (6) Rule .1108 applies to all rate filings described in Subparagraph (5) of this Rule that meet either or both of the following criteria:
 - (a) A filing for a coverage that involves an increase in one year greater than ten percent or a decrease greater than 20 percent.
 - (b) A filing for a coverage by a company whose market share is greater than ten percent.
- (7) In Subparagraph (6) coverage shall mean one of the following:
 - (a) Accountants professional liability;
 - (b) Architects and engineers professional liability;
 - (c) Child care liability (other than such coverage sold incidental to another coverage, e.g., in homeowners or commercial multiperil policies);
 - (d) Dentists professional liability;
 - (e) Directors, officers and trustees liability;
 - (f) Errors and omissions liability;
 - (g) Hospital premises liability;
 - (h) Hospital professional liability;

- (i) Lawyers professional liability;
- (j) Liquor law liability;
- (k) Municipal liability;
- (l) Nurses professional liability;
- (m) Owners, landlords and tenants liability;
- (n) Physicians and surgeons professional liability;
- (o) Police professional liability;
- (p) Pollution and environmental impairment liability;
- (q) Products and completed operations liability;
- (r) Public official liability;
- (s) Public school liability;
- (t) Recreational liability;
- (u) Other healthcare specialties professional liability;
- (v) If not one of Subparagraphs (6)(a) through (6)(u) of this Rule, one of the lines listed on Page 14 of the Annual Statement.
- (8) Rule .1109 applies to all licensed rating organizations participating in a filing made by the North Carolina Rate Bureau or the North Carolina Reinsurance Facility.
- (9) Rate filings are not required for the following lines of insurance:
 - (a) Aviation physical damage;
 - ~~(b) Fidelity and surety;~~
 - ~~(b) (c) Mortgage guaranty;~~
 - ~~(c) (d) Ocean marine.~~
- (10) Rate filings are not required for the following types of policies:
 - (a) Those written pursuant to the Surplus Lines Act;
 - (b) Those written under the Fair Access to Insurance Requirements (FAIR) Plan;
 - (c) Those written by the North Carolina Insurance Underwriting Association (the Beach Plan) that include coverages other than only windstorm and hail;
 - (d) Those written in North Carolina covering multistate insureds except in respect to coverages applicable to North Carolina locations;
 - (e) Those written by a town or county farmers mutual fire insurance association restricting its operations to not more than six adjacent counties in this State;
 - (f) Those that contain assessment provisions and that are written by domestic insurance companies, associations, orders or fraternal benefit societies that are not reciprocals.
- (11) All inland marine manual rates and rating plans must be filed.
 - (a) This Subparagraph applies to the manual rates and rating plans of both companies and rating organizations.
 - (b) Rates and rating plans that are not contained in or derived from a manual need not be filed.
- (12) Rate filings are required for all rates whether advisory, suggested, or manual, except for those lines, policies, and rates specifically excluded in Subparagraphs (9), (10), and (11) of this Rule.
 - (a) Rates applicable to only one particular risk must be filed.
 - (b) Rates may be filed either as manual rates or as ranges of rates from which the rates for individual insureds are determined.
 - (c) Rates based on loss cost filings must be filed in accordance with all the requirements of Rules .1107 and .1108 including the one that requires a comparison of current and proposed rates.
- (13) Rules .1107 and .1108 also apply to loss cost filings. In cases where a rating organization files prospective loss costs, the same requirements as for rate filings apply, with the exception of those dealing with expense and profit provisions.
- (14) The rates contained in all filings approved prior to January 1, 1990, other than those made by the North Carolina Rate Bureau or the North Carolina Reinsurance Facility, shall have an expiration date of January 1, 1992. Such rates may, subject to the Department's approval, be automatically renewed by a letter to the Department, specifying the Department's file number and the original approval date. Thereafter, they remain in effect until superseded, withdrawn, or modified by a subsequent filing.

Statutory Authority G.S. 58-2-40; 58-36-15; 58-36-30; 58-40-30; 58-40-40; 58-41-50.

.1107 COMMERCIAL LINES QUESTIONNAIRE

The information required by G.S. 58-41-50 for those lines of business described in 11 NCAC 10 .1102 (5) shall be submitted by the completion of a Rate Loss Cost Filing Questionnaire and the necessary supplementary exhibits to which the questionnaire refers.

- (1) The Rate Loss Cost Filing Questionnaire ~~shall~~ may, in the Commissioner's discretion, contain the following information:
 - (a) Name of company Licensed rating organization;
 - (b) Filer's Federal Employer's number;
 - (c) Filer's file number;
 - (d) Type of filing;
 - (e) Line(s) of insurance, as shown on Page 14 of the Annual Statement;
 - (f) Subline Program title;

- (g) Type of policies involved;
 - (h) Reasons for the filing;
 - (i) Proposed effective date and rules of implementation;
 - (j) Filer's approximate market share of North Carolina written premium for the line(s) involved;
 - (k) Percentage rate change proposed;
 - (l) Estimated total dollar impact of the filing upon North Carolina policyholders;
 - (m) Whether the filing will increase the premium of any North Carolina policyholder;
 - (n) Type of premium data included;
 - (o) Exposure unit used;
 - (p) Type of loss data included;
 - (q) Permissible loss ratio, permissible loss and LAE ratio, or permissible loss, LAE, and fixed expense ratio;
 - (r) Whether any expenses are treated as fixed;
 - (s) Credibility information;
 - (t) Loss development information;
 - (u) Trend information;
 - (v) Underwriting profit information;
 - (w) Changes in methodologies;
 - (x) Certification of accuracy.
- (2) Also submit supplementary exhibits containing the following information:
- (a) The effect of the proposed filing on active filings affecting the line or subline;
 - (b) A comparison of current and proposed rates;
 - (c) Five-year rate filing history;
 - (d) Premium and loss data (North Carolina and countrywide);
 - (e) Expense data (North Carolina and countrywide);
- (3) In filings derived from a rate filing made by a licensed rating organization and in filings that incorporate without modification loss costs that have been filed by a licensed rating organization, substitute a supplementary exhibit for the items in the questionnaire containing the information described in Subparagraphs (1)(n) through (1)(v) of this Rule.
- (a) For both these types of filings, this exhibit shall contain the following information:
 - (i) The name of the licensed rating organization;
 - (ii) The relationship of the company to the licensed rating organization;
 - (iii) The applicable licensed rating organization filing;
 - (iv) The type of licensed rating organization filing;
 - (v) Eligibility requirements and restrictions applicable to the company's filing.
 - (b) In cases where the licensed rating organization files final rates, this exhibit shall also identify the basis for the differences between the company's proposed rates and those filed by the rating organization.
 - (c) In cases where the licensed rating organization files loss costs, this exhibit shall also contain the following information:
 - (i) Permissible loss ratio, permissible loss and LAE ratio, or permissible loss, LAE, and fixed expense ratio;
 - (ii) Whether any expenses are treated as fixed;
 - (iii) An explanation of the derivation of the expense provisions and of their incorporation into the final rates;
 - (iv) Underwriting profit information.
- (4) For loss cost filings made by licensed rating organizations, the following modifications apply to the requirements in this Rule:
- (a) Substitute percentage loss cost change proposed in Subparagraph (1)(k).
 - (b) Omit the information described in Subparagraphs (1)(j) through (1)(n), (1)(q), (1)(r), and (1)(v) and the items in Subparagraph (1)(u) relating to premium trend.
 - (c) In the exhibit described in Subparagraph (2)(b), compare current and proposed loss costs.
 - (d) In the exhibit described in Subparagraph (2)(c), provide a five-year loss cost filing history.
 - (e) In the exhibit described in Subparagraph (2)(d), omit those items relating to premium.
 - (f) Omit the exhibit described in Subparagraph (2)(e).
- (5) For installment premium payment plan filings, substitute a different questionnaire, containing the following information:
- (a) Name of Company/Licensed rating organization;
 - (b) Filer's Federal Employer Number;
 - (c) Filer's file number;
 - (d) Type of filing;
 - (e) Line(s) of insurance;
 - (f) Reasons for the filing;
 - (g) Proposed effective date and rules of implementation;
 - (h) Filer's approximate market share of North Carolina written premium for the line(s) involved;
 - (i) Percentage rate change proposed;
 - (j) Estimated total dollar impact of the filing upon North Carolina policyholders;
 - (k) A comparison of the current and proposed installment fees;

- (l) Filer's distribution of number of policies and premium by installment payment options;
- (m) Certification of accuracy.

Statutory Authority G.S. 58-2-40; 58-41-50.

SECTION .1600 - PROSPECTIVE LOSS COSTS FILINGS

.1604 SUPPLEMENTARY RATING INFORMATION

(a) A rating organization may submit a proper rate filing to the Department containing a revision of rules, relativities, or other supplementary rating information, on behalf of those insurers that have authorized the rating organization to make such submittal on their behalves. A rating organization may print and distribute manuals of rules, relativities, and other supplementary rating information, excluding minimum premiums.

(b) When an insurer has authorized a rating organization to file on its behalf, and a new filing of rules, relativities, and other supplementary rating information is filed and determined to be proper:

- (1) If the insurer decides to use the revisions and effective date as filed, the insurer is not required to make a filing with the Department.
- (2) If the insurer decides to use the revisions as filed but with a different effective date, the insurer must notify the Department 60 days before the rating organization's effective date, ~~or the insurer's own effective date, whichever date is earlier.~~
- (3) If the insurer decides to use the revisions with modifications, the insurer must file supporting data for the changes with the Department for review and specify the basis for the modifications. This must be done 60 days before the rating organization's effective date, ~~or the insurer's own effective date, whichever date is earlier.~~
- (4) If the insurer decides not to use the revisions, the insurer must notify the Department before the rating organization's effective date.

Statutory Authority G.S. 58-2-40; 58-36-15; 58-37-35; 58-40-30; 58-40-40; 58-41-50; 58-45-45; 58-46-55.

TITLE 15A - DEPARTMENT OF ENVIRONMENT, HEALTH, AND NATURAL RESOURCES

Notice is hereby given in accordance with G.S. 150B-21.2 that the Dept. of Environment, Health, and Natural Resources intends to adopt rule(s) cited as 15A NCAC 1J .0905; and amend rule(s) cited as 15A NCAC 1J .0102; .0204; .0301-.0302, .0304; .0401; .0701-.0703; .0803; .0902-.0904 and .1002.

The proposed effective date of this action is June 1, 1992.

The public hearing will be conducted at 2:00 p.m. on February 27, 1992 at the Archdale Building, Ground Floor Hearing Room, 512 N. Salisbury Street, Raleigh, NC.

Reason for Proposed Action: These rules are being amended to implement Senate Bill 344, to update the name of a receiving agency, to provide clarification of text, and to provide additional guidance for project administration.

Comment Procedures: Any person or organization desiring to make oral comments at the hearing should register to do so at the hearing. Statements will be limited to 10 minutes, and one typewritten copy of any such statement should be submitted to the panel conducting the hearing. Any additional comments should be forwarded to the Division of Environmental Management or Division of Health Services by March 4, 1992. The addresses are as follows:

*For Wastewater:
Division of Environmental Management
Attention: Coy M. Batten
P.O. Box 29535
Raleigh, N.C. 27626-0535
Telephone: (919) 733-6900*

*For Water Supply:
Division of Environmental Health
Attention: Jerry C. Perkins
P.O. Box 29536
Raleigh, N.C. 27626-0536
Telephone: (919) 733-2321*

CHAPTER 1 - DEPARTMENTAL RULES

SUBCHAPTER 1J - STATE CLEAN WATER REVOLVING LOAN AND GRANT PROGRAM

SECTION .0100 - GENERAL PROVISIONS

.0102 DEFINITIONS

In addition to the definitions in G.S. 159G-3, the following definitions will apply to this Subchapter:

- (1) "Act" means the North Carolina Clean Water Revolving Loan and Grant Act of 1987, G.S. 159G.
- (2) "Award" means the offer by the receiving agency to enter into a loan or grant commitment for a specified amount.
- (3) "Award of contract" means the award by the loan or grant recipient to a contractor of a contract to construct the project as bid.
- (4) "Bid" means the amount of money for which a contractor offers to construct the project.
- (5) "Contingency costs" means unforeseen costs or situations not included in the estimate of project costs.
- (6) "Commitment" means a binding agreement to pay loan or grant funds in a lump sum or in installments to an eligible applicant at some future time.
- (7) "Date of completion" means the date on which the project has been completed, as determined by the receiving agency.
- (8) "Division of Environmental Management" means the Division of Environmental Management of the North Carolina Department of ~~Natural Resources and Community Development~~ Environment, Health, and Natural Resources.
- (9) "Effective date of receipt" means September 30 for applications postmarked or hand delivered to the principal offices of the receiving agency in Raleigh, North Carolina between April 1 and September 30, and means March 31 for applications postmarked or hand delivered to the principal offices of the receiving agency in Raleigh, North Carolina between October 1 and March 31; except that for applications to the Emergency Wastewater or Water Supply Revolving Loan Account it means the date designated by the receiving agency for each priority review period established under Rule .0801(b) of this Subchapter.
- (10) "Fiscal year" means the state fiscal year, beginning on July 1 of a calendar year and ending on June 30 of the following calendar year. In referring to a specific fiscal year, the year named is the calendar year in which the fiscal year ends. For example, "Fiscal Year 1988" refers to the fiscal year beginning July 1, 1987 and ending June 30, 1988.
- (11) "Inspection" means inspection or inspections of a project to determine percentage completion of the project and compliance with applicable federal, state and local laws or rules.
- (12) "Orders" means any restrictive measure, related to the operation of its wastewater treatment facilities, issued to an applicant for a loan or grant from the wastewater accounts under this Subchapter. Such measures may be included in, but are not restricted to, Special Orders, Special Orders by Consent, Judicial Orders, or issued or proposed permits, permit modifications or certificates.
- (13) "Project" means the works described in the application for a loan or grant under this Subchapter.
- (14) "Loan" means "revolving loan" as defined in G.S. 159G-3(15).
- (15) "Priority period" means priority review period as established in Section .0800 of this Subchapter.
- (16) "Public necessity" means that a need exists to construct a new wastewater treatment works, wastewater collection system or water supply system, or to improve or expand existing facilities, in order to:
 - (a) promote the public health, safety and welfare;
 - (b) provide adequate services to a substantial portion of the residents within the service area or projected service area of a unit of government who are presently without such services; or
 - (c) alleviate a critical public health hazard or critical water pollution problem.
- (17) "Real property" means land and structures affixed to the land having the nature of real property or interests in land including easements or other rights-of-way purchased or acquired for water supply and wastewater facilities and works to be constructed as a part of the project for which a loan or grant is made under this Subchapter.
- (18) "Regional water supply system" means a public water supply system of a municipality, county, sanitary district, or other political subdivision of the state or combination thereof which provides, is intended to provide, or is capable of providing an adequate and safe supply of water to a substantial portion of the population within a county, or to a substantial water service area in a region composed of all or parts of two or more counties, or to a metropolitan area in two or more counties.

Statutory Authority G.S. 159G-3; 159G-15.

SECTION .0200 - ELIGIBILITY
REQUIREMENTS

.0204 LOANS FROM THE EMERGENCY
REVOLVING LOAN ACCOUNTS

(a) Projects required for repair or replacement of existing wastewater treatment or collection facilities where failure of such facilities creates or will create conditions jeopardizing the classified uses of the receiving waters, or resulting in a present or imminent serious public health hazard as certified by the Environmental Management Commission, or projects on moratorium are eligible for loans from the Emergency Wastewater Revolving Loan Account.

(b) Projects required to remedy a serious public health hazard related to the water supply system that is present or imminent in a community as certified by the Division of Health Services Environmental Health are eligible for loans from the Emergency Water Supply Revolving Loan Account.

(c) Project cost overruns on wastewater treatment, wastewater collection or water supply projects are not eligible for loans from the Emergency Wastewater Revolving Loan Account or the Emergency Water Supply Revolving Loan Account, unless the original project loan commitment was from one of those accounts.

Statutory Authority G.S. 159G-6(b)(3); 159G-6(c)(3); 159G-15.

SECTION .0300 - APPLICATIONS

.0301 APPLICATION FILING DEADLINES

(a) ~~In Fiscal Year 1988, applications to be considered for a loan or grant award under this Subchapter from funds appropriated for Fiscal Year 1988 shall be postmarked or delivered to the principal offices of the receiving agency in Raleigh, North Carolina on or before March 31, 1988, which shall be the filing deadline for that priority review period.~~

(b) ~~In Fiscal Year 1989 and in every fiscal year thereafter, Applications to be considered for a loan or grant award under this Subchapter from funds available in the first semi-annual priority review period of a fiscal year shall have an effective date of receipt of September 30 of that year, which shall be the filing deadline for that priority review period. Applications to be considered for a loan or grant award under this Subchapter from funds available in the second semi-annual priority review period of a fiscal year shall have an effective date of receipt of March 31 of that year, which shall be the filing deadline for that priority review period.~~

Statutory Authority G.S. 159G-8; 159G-9; 159G-10(a); 159G-15.

.0302 GENERAL PROVISIONS

(a) Applications for loans or grants under this Subchapter shall be submitted on the appropriate forms and accompanied by all documentation, assurances and other information called for in the instructions for completing and filing applications. Information concerning any grant or loan funds from any other source that the applicant has applied for or received for the project shall be disclosed on the application.

(b) An applicant shall furnish information in addition to or supplemental to the information contained in its application and supporting documentation upon request by the receiving agency.

(c) An applicant may amend an application having an effective date of receipt of the filing deadline for a priority review period to include additional data or information in support of its original application at any time prior to the date the receiving agency sets the priority rating for that priority review period.

(d) Any application that does not contain information sufficient to permit the receiving agency to review and approve the project by the date the receiving agency sets the priority rating for a priority review period shall not be included in the priority rating for that priority review period.

(e) An application shall be filed with the receiving agency before the award of contract on a project. ~~except that applicants having awarded a contract on a project on or after August 12, 1987 may file an application at any time on or before March 31, 1988.~~ The award of contract on a project prior to consideration of the application for a loan or grant award will neither exclude the application from consideration nor guarantee the award of a loan or grant for the project.

(f) An application may be withdrawn from consideration upon request of the applicant but if resubmitted shall be considered as a new application.

(g) Applications to the General Wastewater Revolving Loan and Grant Account shall first be considered for funding from the Water Pollution Control Revolving Fund established by G.S. 159G-5(c). If the application does not receive full funding from that Fund, it shall be considered for funding from the General Wastewater Revolving Loan and Grant Account.

Statutory Authority G.S. 159G-8; 159G-9; 159G-10(a); 159G-15.

.0304 APPLICATIONS FOR EMERGENCY LOANS

(a) Applications for loans from the Emergency Wastewater Revolving Loan Account shall be submitted to the Division of Environmental Management. The application will be processed and considered for approval by the Environmental Management Commission during the appropriate priority review period as established under Rule .0801(b) of this Subchapter.

(b) Applications for loans from the Emergency Water Supply Revolving Loan Account shall be submitted to the Division of ~~Health Services~~ Environmental Health. The application will be processed and considered for approval by the Division of ~~Health Services~~ Environmental Health during the appropriate priority review period as established under Rule .0801(b) of this Subchapter.

(c) Applications for emergency loans shall conform with this Subchapter, except that Rules .0301 and .0303(a) shall not apply.

Statutory Authority G.S. 159G-6(b)(3); 159G-6(c)(3); 159G-15.

SECTION .0400 - CRITERIA FOR EVALUATION OF ELIGIBLE APPLICATIONS

.0401 GENERAL CRITERIA

(a) During the review periods set forth in Section .0800 of this Subchapter all eligible applications shall be assigned a priority for loan or grant funds. Priorities shall be assigned by the Environmental Management Commission for applications for project loans or grants for wastewater treatment works and wastewater collection systems and by the Division of ~~Health Services~~ Environmental Health for applications for project loans or grants for water supply systems.

(b) In determining the priority to be assigned each eligible application, the Environmental Management Commission and the Division of ~~Health Services~~ Environmental Health will give consideration to the following priority factors:

- (1) Primary consideration shall be given to the public necessity of the project in promoting the public health, safety, and welfare and in providing or having the potential of providing the greatest benefit to the greatest number of persons.
- (2) Consideration shall also be given to the eligibility of the proposed project for federal funding; the ~~compatibility~~ compatibility of the proposed project with the state's general program of water supply and water pollution control, and any applicable regional planning program; the population to be served; the fiscal responsibility of the applicant; and the need of the applicant for funding assistance.
- (3) Additional consideration shall be given to eligible units of government which demonstrate practices for the conservation of water.

(c) The categorical elements and items to be considered in assigning priorities to each application for which loan or grant funds are sought, and the points to be awarded to each categorical element and item are set forth in Sections .0500, .0600 and .0700 of this Subchapter. Unless otherwise specifically indicated, if an item for an element of a particular category applies specifically to the application under consideration, the application will be awarded the number of points assigned to that item for the categorical element; and if no item applies, no points will be awarded the application for that particular element.

Statutory Authority G.S. 159G-10; 159G-15.

SECTION .0700 - PRIORITY CRITERIA FOR WATER SUPPLY SYSTEMS PROJECTS

.0701 PUBLIC NECESSITY: HEALTH: SAFETY AND WELFARE

Maximum Value--55 points:

(1) System and Service Area Needs: (Maximum Points--20)

(a) The project is intended solely to increase the source of raw water to meet existing service area needs or to alleviate water shortage problems.

12 points

(b) The project is intended to improve an existing system with no increase in the area to be served.

12 points

(c) The project is intended to increase the existing area to be served without improvement of the existing system.

14 points

(d) The project is intended to increase the existing area to be served and includes needed improvements to the existing system.

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- (c) The project is intended to significantly increase the existing area to be served, includes needed improvements to the existing system and is so designed as to permit inter-connection at an appropriate time with an expanding metropolitan, area-wide or regional system. 16 points
- (f) The project is intended to provide for construction of a basic system for a unit of government which is not presently served by an approved public water supply system. 20 points
- (2) Public Health Need (Maximum Points--15). If one item of this categorical element applies, the value of 10 points will be awarded. If both items apply, a maximum of 15 points will be awarded: 20 points
- (a) The project is intended to alleviate an urgent or immediately anticipated water shortage problem which has significant public health implications. 10 points
- (b) The project is necessary to eliminate a potential public health hazard. 10 points
- Notwithstanding other provisions relating to the assignment of priority point values for various categorical elements and items, the Division of ~~Health Services~~ Environmental Health may award a higher priority value to an eligible application if the proposed project is required to eliminate a demonstrated or critical hazard to the public health.
- (3) Capacity for Future Growth (Select One) (Maximum Points--20):
- (a) The project is intended to provide for the immediate needs. 6 points
- (b) The project is intended to provide for the reasonable foreseeable growth needs of the area during the next 5-10 years. 10 points
- (c) The project is intended to provide for the reasonable foreseeable growth needs of the area during the next 11-15 years. 12 points
- (d) The project is intended to provide for the reasonable foreseeable growth needs of the area during the next 16-20 years. 14 points
- (e) The project is a proposed regional system or a major component of a regional system which is intended to provide for the reasonable foreseeable growth needs of the area to be served during the next 20 or more years. 20 points

Statutory Authority: G.S. 159G-10; 159G-15.

.0702 COMPATIBILITY WITH STATE, REGIONAL AND LOCAL PLANNING

Maximum Value--10 points:

The value of this categorical element is the sum of the points awarded to either Item (1), (2), or (3) plus the points assigned to Item (4) of this Rule:

- (1) In the absence of applicable local, area-wide or regional planning, the project has been endorsed officially by the appropriate planning agencies or by the appropriate elected officials of the county or counties in which the project is located or proposed to be located. 5 points
- (2) The project is compatible with applicable local, area-wide or regional planning in the county or counties in which the project is located or proposed to be located. 6 points
- (3) The project is compatible with applicable local, area-wide or regional planning in the county or counties in which the project is located or proposed to be located and has been officially endorsed by the appropriate planning agencies. 8 points

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- (4) The project is compatible with the state's general program of water supply planning for the county or counties in which the project is located or proposed to be located or is in compliance with a regional water supply system plan approved by the Division of ~~Health Services~~ Environmental Health.

2 points

Statutory Authority G.S. 159G-10; 159G-15.

.0703 FINANCIAL CONSIDERATIONS

Maximum Value--35 Points:

(1) Financing of the Project (Select One)

(Maximum Points--10):

- (a) Applicant has received a commitment for funding from a federal agency.

5 points

- (b) Applicant has funds available or bonds have been authorized to provide the applicant's share of the project costs but a commitment for funding has not been received from a federal agency.

5 points

- (c) Applicant has received a commitment for funding from a federal agency and has funds available or bonds have been authorized to provide the applicant's share of project costs.

10 points

- (d) Applicant has funds available or bonds have been authorized to cover project costs over and above the state grant or loan funds requested.

10 points

(2) Fiscal Responsibility of the Applicant (Maximum Points--10). The value of this categorical element shall be the sum of the points awarded Items (a) to (e) of this Paragraph:

- (a) The applicant has followed proper accounting and fiscal reporting procedures as reflected in the applicant's most recent report of audit, and the applicant is in substantial compliance with the provisions of the general fiscal control laws of the state.

2 points

- (b) The applicant has an effective tax collection program.

2 points

- (c) The additional debt service requirements resulting from the project will not increase the existing tax rate excessively.

2 points

- (d) Estimated revenues will provide funds for proper future operation, maintenance and administration, reasonable expansion of the project and estimated annual principal and interest requirements for the project debt plus annual principal and interest requirements on the outstanding debt incurred for existing facilities.

2 points

- (e) The applicant has established or has submitted a resolution of its governing body directing the establishment of a capital reserve fund into which all surplus revenues from charges and fees will be placed for the purposes specified in G.S. 159G-9(4). (Copy of the resolution must be submitted with the application.)

2 points

In determining the points to be awarded this categorical element, the Division of ~~Health Services~~ Environmental Health may seek the comments of the Secretary of the Local Government Commission. Applicants not authorized to levy taxes shall be eligible to receive two points for Item (b) and two points for Item (c) of this Paragraph.

(3) Financial Need of the Applicant (Maximum Points--15). The financial need of the applicant will be determined by the following formula:

$$\text{Points} = \frac{f \times 100 (\text{Total Bonded Indebtedness plus Total Estimated Project Cost})}{\text{Total Appraised Property Valuation}}$$

"Total bonded indebtedness" includes all outstanding bonds as of the first day of the quarter in which the project application is eligible for consideration for the assignment of a priority but shall not include bonds already authorized or sold to finance the proposed project.

"Total appraised property valuation" refers only to real property valuation based on the most recent appraisal for tax purposes as officially recorded in the county or counties in which the service area of the proposed project is to be located.

"f" shall be a factor of 1.5 for project applications from units of government located in counties or areas designated by the Economic Development Administration as a "qualified area" under the Public Works and Economic Development Act of 1965 as amended. For all other applications, the factor shall be 1.25.

"f x 100" is used in the formula to provide point values for this categorical element.

Statutory Authority G.S. 159G-10; 159G-15.

**SECTION .0800 - PRIORITY REVIEW PERIODS:
ASSIGNMENT OF PRIORITIES**

**.0803 ASSIGNMENT OF CATEGORY
TO WASTEWATER APPLICATIONS**

(a) Applications to the General Wastewater Revolving Loan Account or the High-Unit Cost Wastewater Account will be assigned a category as follows, during review of the applications:

(1) All applications for projects that are under orders or projects whose receiving waters have been designated Nutrient Sensitive Waters by the Environmental Management Commission, and that have submitted final project plans and specifications for review and approval by the receiving agency, shall be placed in Category 1.

(2) All applications for projects that are under orders or projects whose receiving waters have been designated Nutrient Sensitive Waters by the Environmental Management Commission and which have not submitted final project plans and specifications for review and approval by the receiving agency and all applications for projects not included in Category 1 that have submitted final project plans and specifications for review and approval by the receiving agency shall be placed in Category 2.

(3) All other applications shall be placed in Category 3.

(b) All applications in Category 1 for a specific wastewater account will be funded before applications in Category 2 in the same account. All applications in Category 2 for a specific wastewater account will be funded before applications in Category 3 in the same account.

Statutory Authority G.S. 159G-2; 159G-15.

**SECTION .0900 - LOAN AND GRANT AWARD
AND**

**COMMITMENT: DISBURSEMENT OF LOANS
AND GRANTS**

.0902 CERTIFICATION OF ELIGIBILITY

(a) The receiving agency shall ~~forward to the Office of State Budget and Management~~ create a certificate of eligibility ~~and notification of commitment~~ for each application for which a loan or grant commitment has been made.

(b) The certificate of eligibility shall indicate that the applicant meets all eligibility criteria and that all other requirements of the Act have been met.

(c) ~~The notification of commitment certificate of eligibility~~ shall also indicate the amount and the fiscal year of the loan or grant commitment.

Statutory Authority G.S. 159G-12; 159G-15.

.0903 CRITERIA FOR LOAN ADJUSTMENTS

Upon receipt of bids, a loan commitment may be adjusted as follows:

(1) The loan commitment may be decreased, provided the project cost as bid is less than the estimated project cost, and the receiving agency approves the loan commitment decrease.

(2) Loan commitments may be increased, to a maximum of ten percent or three hundred thousand dollars (\$300,000.00), whichever is greater, provided: the project cost as bid is greater than the estimated project cost; the project as bid is in accordance with the project for which the loan commitment was made; the receiving agency has reviewed the bids and determined that substantial cost savings would not be available through project revisions without jeopardizing the integrity of the project; and adequate funds are available in the account from which the loan was awarded. Increases greater than ten percent of the loan commitment shall be approved by the receiving agency, the

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Local Government Commission; and, for wastewater projects, the Office of State Budget and Management- Environmental Management Commission.

Statutory Authority G.S. 159G-12; 159G-15.

.0904 DISBURSEMENT OF LOANS AND GRANTS

(a) Disbursement of the total amount of loans less than fifty thousand dollars (\$50,000) will be made upon award of contract. The loan recipient will notify the receiving agency of the award of contract. The receiving agency will authorize the loan disbursement upon receipt and review of such notice.

(b) Disbursement of loans of fifty thousand dollars (\$50,000) or greater will be made in installments. ~~of 25 percent of the total loan amount.~~ The first ~~25 percent~~ installment will be 25 percent of the loan and made upon award of contract; the second ~~25 percent~~ installment will be 25 percent of the loan and made upon 20 percent completion of the project; the third ~~25 percent~~ installment will be 25 percent of the loan and made upon 45 percent completion of the project; and the fourth ~~25 percent~~ installment will be made upon 70 percent completion of the project. The applicant will notify the receiving agency of the award of contract for disbursement of the first installment, and will provide documentation of percentage project completion for disbursement of the remaining installments. Upon receipt and review of such notice or documentation, the receiving agency will authorize the disbursements. When the receiving agency determines that the full loan amount is not required to complete the project, it may reduce or adjust the fourth installment accordingly.

(c) Grant disbursements will be made according to the same schedules and criteria as established for loans under this Rule.

(d) The receiving agency will notify the Office of State Budget and Management Fiscal Management Office of the Department of Environment, Health, and Natural Resources to make loan or grant disbursements. A check in the amount of the disbursement authorized by the receiving agency will be forwarded written to the loan or grant recipient by the Office of State Budget and Management- Fiscal Management Office. The receiving agency will be notified by the Office of State Budget and Management as disbursements are made. The check will be forwarded to the loan or grant recipient by the receiving agency.

Statutory Authority G.S. 159G-12; 159G-15.

.0905 PROJECT ADMINISTRATIVE CLOSEOUT

(a) The receiving agency will schedule a closeout session immediately after the scheduled date for completion or the actual date of completion, whichever occurs first.

(b) If the receiving agency determines the total disbursements have exceeded project costs by one percent or five thousand dollars (\$5,000) (whichever is greater), the recipient will be required to reimburse the overpayment to the Department of Environment, Health, and Natural Resources within 30 days of notification. The final promissory note will be adjusted accordingly.

Statutory Authority G.S. 159G-12; 159G-15.

SECTION .1000 - LOAN REPAYMENTS

.1002 REPAYMENT OF PRINCIPAL AND INTEREST ON LOANS

(a) The debt instrument setting the terms and conditions of repayment of loans under this Subchapter will be established after the receipt of bids and after any adjustments are made under Rule Rules .0903 and .0905 of this Subchapter.

(b) The maximum maturity on any loan under this Subchapter shall not exceed 20 years.

(c) Interest on the debt instrument will begin to accrue on the date the final disbursement is made to the loan or grant recipient by the Office of State Budget and Management. project is scheduled to be completed.

(d) All principal payments will be made annually on or before May 1. The first principal payment is due not earlier than six months after the original date of scheduled completion of the project.

(e) All interest payments will be made semiannually on or before May 1 and November 1 of each year. The first interest payment is due not earlier than six months after the original date of scheduled completion of the project.

(f) All principal and interest payments shall be made payable to the appropriate account as specified in the debt instrument.

Statutory Authority G.S. 159G-13; 159G-15; 159G-18.

Notice is hereby given in accordance with G.S. 150B-21.2 that the EHNR - Environmental Man-

agement Commission intends to amend rule(s) cited as 15A NCAC 2B .0216 and .0303.

The proposed effective date of this action is August 1, 1992.

The public hearing will be conducted at 7:00 p.m. on March 16, 1992 at the Courtroom, Transylvania County Courthouse, Main Street, Brevard, NC.

Reason for Proposed Action: To reclassify portions of Bearwallow Creek and the Tuckaseegee River in the Little Tennessee River Basin and Savannah River Drainage Area.

Comment Procedures: All persons interested in this matter are invited to attend. Comments, statements, data and other information may be submitted in writing prior to, during or within 30 days after the hearing or may be presented verbally at the hearing. Verbal statements may be limited at the discretion of the hearing officer. Submittal of written copies of verbal statements is encouraged.

Fiscal Note: This Rule affects the expenditures or revenues of local funds. A fiscal note was submitted to the Fiscal Research Division on December 18, 1991, OSBM on December 18, 1991, N.C. League of Municipalities on December 18, 1991, and N.C. Association of County Commissioners on December 18, 1991.

CHAPTER 2 - ENVIRONMENTAL MANAGEMENT

SUBCHAPTER 2B - SURFACE WATER STANDARDS: MONITORING

SECTION .0200 - CLASSIFICATIONS AND WATER QUALITY STANDARDS APPLICABLE TO SURFACE WATERS OF NORTH CAROLINA

.0216 OUTSTANDING RESOURCE WATERS

(a) General. In addition to the existing classifications, the Commission may classify certain unique and special surface waters of the state as outstanding resource waters (ORW) upon finding that such waters are of exceptional state or national recreational or ecological significance and that the waters have exceptional water quality while meeting the following conditions:

- (1) there are no significant impacts from pollution with the water quality rated as excellent based on physical, chemical and or biological information;

- (2) the characteristics which make these waters unique and special may not be protected by the assigned narrative and numerical water quality standards.

(b) Outstanding Resource Values. In order to be classified as ORW, a water body must exhibit one or more of the following values or uses to demonstrate it is of exceptional state or national recreational or ecological significance:

- (1) there are outstanding fish (or commercially important aquatic species) habitat and fisheries;
- (2) there is an unusually high level of water-based recreation or the potential for such recreation;
- (3) the waters have already received some special designation such as a North Carolina or National Wild and Scenic River, Native or Special Native Trout Waters, National Wildlife Refuge, etc, which do not provide any water quality protection;
- (4) the waters represent an important component of a state or national park or forest; or
- (5) the waters are of special ecological or scientific significance such as habitat for rare or endangered species or as areas for research and education.

(c) Quality Standards for ORW.

- (1) Freshwater: Water quality conditions shall clearly maintain and protect the outstanding resource values of waters classified ORW. Management strategies to protect resource values will be developed on a site specific basis during the proceedings to classify waters as ORW. At a minimum, no new discharges or expansions of existing discharges will be permitted, and stormwater controls for all new development activities requiring a Sediment Erosion Control Plan will be required as follows:

- (A) Low Density Option: Developments which limit single family developments to one acre lots and other type developments to 12 percent built-upon area, have no stormwater collection system as defined in 15A NCAC 2H .1002(13), and have built-upon areas at least 30 feet from surface water areas will be deemed to comply with this requirement.
- (B) High Density Development: Higher density developments will be allowed if stormwater control systems utilizing wet detention ponds as described in 15A NCAC 2H .1003(i), (k) and (l) are installed, operated and maintained which

control the runoff from all built-upon areas generated from one inch of rainfall. The size of the control system must take into account the runoff from any pervious surfaces draining to the system.

More stringent requirements may be required by the Environmental Management Commission on a site specific basis.

- (2) Saltwater: Water quality conditions shall clearly maintain and protect the outstanding resource values of waters classified ORW. Management strategies to protect resource values will be developed on a site-specific basis during the proceedings to classify waters as ORW. At a minimum, new development will comply with the low density options as specified in the Stormwater Runoff Disposal rules [16 NCAC 2H .1003 (a)(2)] within 575 feet of the mean high water line of the designated ORW area. New non-discharge permits will be required to meet reduced loading rates and increased buffer zones, to be determined on a case-by-case basis. No dredge or fill activities will be allowed where significant shellfish or submerged aquatic vegetation bed resources occur, except for maintenance dredging, such as that required to maintain access to existing channels and facilities located within the designated areas or maintenance dredging for activities such as agriculture. A public hearing is mandatory for any proposed permits to discharge to waters classified as ORW.

Additional actions to protect resource values will be considered on a site specific basis during the proceedings to classify waters as ORW and will be specified in Paragraph (e) of this Rule. These actions may include anything within the powers of the commission. The commission will also consider local actions which have been taken to protect a water body in determining the appropriate state protection options. Descriptions of boundaries of waters classified as ORW are included in Paragraph (e) of this Rule and in the Schedule of Classifications (15A NCAC 2B .0302 through .0317) as specified for the appropriate river basin and will also be described on maps maintained by the Division of Environmental Management.

(d) Petition Process. Any person may petition the Commission to classify a surface water of the state as an ORW. The petition shall identify the exceptional resource value to be protected, address how the water body meets the general criteria in Paragraph (a) of this Rule, and the suggested actions to protect the resource values.

The Commission may request additional supporting information from the petitioner. The Commission or its designee will initiate public proceedings to classify waters as ORW or will inform the petitioner that the waters do not meet the criteria for ORW with an explanation of the basis for this decision. The petition should be sent to:

Director
Division of Environmental Management
P.O. Box 27687

Raleigh, North Carolina 27611-7687

The envelope containing the petition should clearly bear the notation: RULE-MAKING PETITION FOR ORW CLASSIFICATION.

(e) Listing of Waters Classified ORW with Specific Actions. Waters classified as ORW with specific actions to protect exceptional resource values are listed as follows:

- (1) Roosevelt Natural Area [White Oak River Basin, Index Nos. 20-36-9.5-(1) and 20-36-9.5-(2)] including all fresh and saline waters within the property boundaries of the natural area will have only new development which complies with the low density option in the stormwater rules as specified in 15A NCAC 2H .1003(a)(2) within 575 feet of the Roosevelt Natural Area (if the development site naturally drains to the Roosevelt Natural Area).
- (2) Chattooga River ORW Area (Little Tennessee River Basin and Savannah River Drainage Area): the following undesignated waterbodies that are tributary to ORW designated segments shall comply with Rule .0216(c) of this Section in order to protect the designated waters as per Rule .0203 of this Section. However, expansions of existing discharges to these segments will be allowed if there is no increase in pollutant loading:
 - (A) North and South Fowler Creeks,
 - (B) Green and Norton Mill Creeks,
 - (C) Cane Creek,
 - (D) Ammons Branch,
 - (E) Glade Creek, and
 - (F) Associated tributaries.
- (3) Henry Fork ORW Area (Catawba River Basin): the following undesignated waterbodies that are tributary to ORW designated segments shall comply with Rule .0216(c) of this Section in order to protect the designated waters as per Rule .0203 of this Section:
 - (A) Ivy Creek,
 - (B) Rock Creek, and
 - (C) Associated tributaries.

- (4) *Editor's Note: The proposed text for this Subparagraph is contained in a separate notice of hearing found on page 1527 in this issue of the Register (6:20 NCR 1527).*
- (5) Bearwallow Creek (Little Tennessee River Basin and Savannah River Drainage Area): the undesignated portion of Bearwallow Creek (from its source to 2.3 miles upstream of mouth) shall comply with the management strategies applied to High Quality Waters described in Rule .0201(d) (1) and (2) of this Section in order to protect the designated waters as per Rule .0203 of this Section.
- (6) *Editor's Note: The proposed text for this Subparagraph is contained in a separate notice of hearing found on page 1528 in this issue of the Register (6:20 NCR 1528).*
- (7) ~~(4)~~ In the following designated waterbodies, no additional restrictions will be placed on new or expanded marinas. The only new or expanded NPDES permitted discharges that will be allowed will be non-domestic, non-process industrial discharges.
- (A) The Alligator River Area (Pasquotank River Basin) extending from the source of the Alligator River to the U.S. Highway 64 bridge including New Lake Fork, North West Fork Alligator River, Juniper Creek, Southwest Fork Alligator River, Scouts Bay, Gum Neck Creek, Georgia Bay, Winn Bay, Stumpy Creek Bay, Stumpy Creek, Swann Creek (Swann Creek Lake), Whipping Creek (Whipping Creek Lake), Grapevine Bay, Rattlesnake Bay, The Straits, The Frying Pan, Coopers Creek, Babbitt Bay, Goose Creek, Milltail Creek, Boat Bay, Sandy Ridge Gut (Sawyer Lake) and Second Creek, but excluding the Intracoastal Waterway (Pungo River-Alligator River Canal) and all other tributary streams and canals.
- (8) ~~(5)~~ In the following designated waterbodies, the only type of new or expanded marina that will be allowed will be those marinas located in upland basin areas. The only new or expanded NPDES permitted discharges that will be allowed will be non-domestic, non-process industrial discharges.
- (A) The Northeast Swanquarter Bay Area including all waters northeast of a line from a point at Lat. 35° 23' 51" and Long. 76° 21' 02" thence southeast along the Swanquarter National Wildlife Refuge hunting closure boundary (as defined by the 1935 Presidential Proclamation) to Drum Point.
- (B) The Neuse-Southeast Pamlico Sound Area (Southeast Pamlico Sound Area (Southeast Pamlico Sound Section of the Southeast Pamlico, Core and Back Sound Area); (Neuse River Basin) including all waters within an area defined by a line extending from the southern shore of Ocracoke Inlet northwest to the Tar-Pamlico River and Neuse River basin boundary, then southwest to Ship Point.
- (C) The Core Sound Section of the Southeast Pamlico, Core and Back Sound Area (White Oak River Basin) including all waters of Core Sound, and its tributaries, and the portion of the Atlantic Harbor Restricted Area that is open to shellfishing, but excluding Nelson Bay ~~the Atlantic Harbor Restricted Area~~ and those tributaries of Jarrett Bay that are closed to shellfishing.
- (D) The Western Bogue Sound Section of the Western Bogue Sound and Bear Island Area (White Oak River Basin) including all waters within an area defined by a line from Bogue Inlet to the mainland at SR 1117 to a line across Bogue Sound from the southwest side of Gales Creek to Rock Point, including Taylor Bay and the Intracoastal Waterway.
- (E) The Stump Sound Area (Cape Fear River Basin) including all waters of Stump Sound and Alligator Bay from marker Number 17 to the western end of Permuda Island, but excluding Rogers Bay, the Kings Creek Restricted Area and Mill Creek.
- (F) The Topsail Sound and Middle Sound Area (Cape Fear River Basin) including all estuarine waters from New Topsail Inlet to Mason Inlet, including the Intracoastal Waterway and Howe Creek, but excluding Pages Creek and Futch Creek.
- (9) ~~(6)~~ In the following designated waterbodies, no new or expanded NPDES permitted discharges and no new or expanded marinas will be allowed.
- (A) The Swanquarter Bay and Juniper Bay Area (Tar-Pamlico River Basin) including all waters within a line beginning at Juniper Bay Point and running south and then west below Great Island, then northwest to Shell Point and including Shell Bay, Swanquarter and Juniper Bays and their tributaries, but excluding all

waters northeast of a line from a point at Lat. 35° 23' 51" and Long. 76° 21' 02" thence southeast along the Swanquarter National Wildlife Refuge hunting closure boundary (as defined by the 1935 Presidential Proclamation) to Drum Point and also excluding the Blowout Canal, Hydeland Canal, Juniper Canal and Quarter Canal.

(B) The Back Sound Section of the Southeast Pamlico, Core and Back Sound Area (White Oak River Basin) including that area of Back Sound extending from Core Sound west along Shackelford Banks, then north to the western most point of Middle Marshes and along the northwest shore of Middle Marshes (to include all of Middle Marshes), then west to Rush Point on Harker's Island, and along the southern shore of Harker's Island back to Core Sound.

(C) The Bear Island Section of the Western Bogue Sound and Bear Island Area (White Oak River Basin) including all waters within an area defined by a line from the western most point on Bear Island to the northeast mouth of Goose Creek on the mainland, east to the southwest mouth of Queen Creek, then south to green marker No. 49, then northeast to the northern most point on Huggins Island, then southeast along the shoreline of Huggins Island to the southeastern most point of Huggins Island, then south to the northeastern most point on Dudley Island, then southwest along the shoreline of Dudley Island to the eastern tip of Bear Island.

(D) The Masonboro Sound Area (Cape Fear River Basin) including all waters between the Barrier Islands and the mainland from Carolina Beach Inlet to Masonboro Inlet.

Statutory Authority G.S. 143-214.1.

SECTION .0300 - ASSIGNMENT OF STREAM CLASSIFICATIONS

.0303 LITTLE TENN RIVER BASIN AND SAVANNAH RIVER DRAINAGE AREA

(a) Places where the schedule may be inspected:

- (1) Clerk of Court:
Clay County
Graham County
Jackson County
Macon County
Swain County

Transylvania County

- (2) North Carolina Department of Natural Resources and Community Development
Asheville Regional Office
Interchange Building
159 Woodfin Street
Asheville, North Carolina

(b) Unnamed Streams. Such streams entering Georgia or Tennessee will be classified "C Tr." Such streams in the Savannah River drainage area entering South Carolina will be classified "B Tr."

(c) The Little Tennessee River Basin and Savannah River Drainage Area Schedule of Classifications and Water Quality Standards was amended effective:

- (1) February 16, 1977;
- (2) March 1, 1977;
- (3) July 13, 1980;
- (4) February 1, 1986;
- (5) October 1, 1987;
- (6) March 1, 1989;
- (7) January 1, 1990;
- (8) July 1, 1990;
- (9) August 1, 1990;
- (10) March 1, 1991;
- (11) August 1, 1992.

(d) The Schedule of Classifications of Water Quality Standards for the Little Tennessee Basin and Savannah River Drainage Area was amended effective March 1, 1989 as follows:

- (1) Nantahala River (Index No. 2-57) from source to the backwaters of Nantahala Lake and all tributary waters were reclassified from Class B-trout, Class C-trout and Class C to Class B-trout ORW, Class C-trout ORW and Class C ORW.
- (2) Chattooga River (Index No. 3) including Scotsman Creek, Overflow Creek, Big Creek, Talley Mill Creek and all tributary waters were reclassified from Class B-trout, Class C-trout and Class C to Class B-trout ORW, Class C-trout ORW and Class C ORW and Clear Creek and all tributary waters were reclassified from Class C-trout and Class C to Class B-trout and Class B.

(e) The Schedule of Classifications and Water Quality Standards for the Little Tennessee River Basin and Savannah River Drainage Area was amended effective January 1, 1990 as follows:

- (1) North Fork Coweeta Creek (Index No. 2-10-4) and Falls Branch (Index No. 2-10-4-1) were reclassified from Class C to Class B.
- (2) Burningtown Creek (Index No. 2-38) was reclassified from C-trout to B-trout.

(f) The Schedule of Classifications and Water Quality Standards for the Little Tennessee River Basin and Savannah River Drainage Area was amended effective July 1, 1990 by the reclassification of Alarka Creek (Index No. 2-69) from source to Upper Long Creek (Index No. 2-69-2) including all tributaries from Classes C and C Tr to Classes C HQW and C Tr HQW.

(g) The Schedule of Classifications and Water Quality Standards for the Little Tennessee River Basin and Savannah River Drainage Area was amended effective March 1, 1991 as follows:

- (1) Cartoogechaye Creek [Index Nos. 2-19-(1) and 2-19-(16)] from Gibson Cove Branch to bridge at U.S. Hwy. 23 and 441 and from the bridge at U.S. Hwy. 23 and 441 to the Little Tennessee River was reclassified from Classes WS-III Tr and C Tr to Classes WS-III and B Tr and B Tr respectively.
- (2) Coweeta Creek (Index Nos. 2-10) from its source to the Little Tennessee River including all tributaries except Dryman Fork (Index No. 2-10-3) and North Fork Coweeta Creek (Index No. 2-10-4) was reclassified from Classes C and C Tr to Classes B and B Tr.

(h) The Schedule of Classifications and Water Quality Standards for the Little Tennessee River Basin and Savannah River Drainage Area has been amended effective August 1, 1992 as follows:

- (1) Bearwallo Creek from 2.3 miles upstream of the Toxaway River [Index No. 4-7-(2)] was reclassified from Class C Tr HQW to C Tr ORW; and
- (2) The Tuckasegee River from its source to Tennessee Creek [Index No. 2-79-(0.5)] including all tributaries was reclassified from Classes B Tr HQW, C HQW and C to Classes B Tr ORW and C ORW.

Statutory Authority G.S. 143-214.1; 143-215.1; 143-215.3(a)(1).

* * * * *

Notice is hereby given in accordance with G.S. 150B-21.2 that the EHNR - Environmental Management Commission intends to amend rule(s) cited as 15A NCAC 2B .0216; .0305 and .0307.

The proposed effective date of this action is August 1, 1992.

The public hearing will be conducted at 7:00 p.m. on March 17, 1992 at the Courtroom 1 - 2nd Floor, Watauga County Courthouse, 403 W. King Street, Boone, N.C.

Reason for Proposed Action: To reclassify Boone Fork (Watauga River Basin) and portions of Old Field Creek, and the South Fork New and New Rivers (New River Basin).

Comment Procedures: All persons interested in this matter are invited to attend. Comments, statements, data and other information may be submitted in writing prior to, during or within 30 days after the hearing or may be presented verbally at the hearing. Verbal statements may be limited at the discretion of the hearing officer. Submittal of written copies of verbal statements is encouraged.

Fiscal Note: This Rule affects the expenditures or revenues of local funds. A fiscal note was submitted to the Fiscal Research Division on December 18, 1991, OSBM on December 18, 1991, N.C. League of Municipalities on December 18, 1991, and N.C. Association of County Commissioners on December 18, 1991.

CHAPTER 2 - ENVIRONMENTAL MANAGEMENT

SUBCHAPTER 2B - SURFACE WATER STANDARDS: MONITORING

SECTION .0200 - CLASSIFICATIONS AND WATER QUALITY STANDARDS APPLICABLE TO SURFACE WATERS OF NORTH CAROLINA

.0216 OUTSTANDING RESOURCE WATERS

(a) General. In addition to the existing classifications, the Commission may classify certain unique and special surface waters of the state as outstanding resource waters (ORW) upon finding that such waters are of exceptional state or national recreational or ecological significance and that the waters have exceptional water quality while meeting the following conditions:

- (1) there are no significant impacts from pollution with the water quality rated as excellent based on physical, chemical and/or biological information;
- (2) the characteristics which make these waters unique and special may not be protected by the assigned narrative and numerical water quality standards.

(b) Outstanding Resource Values. In order to be classified as ORW, a water body must exhibit one or more of the following values or uses to

demonstrate it is of exceptional state or national recreational or ecological significance:

- (1) there are outstanding fish (or commercially important aquatic species) habitat and fisheries;
- (2) there is an unusually high level of water-based recreation or the potential for such recreation;
- (3) the waters have already received some special designation such as a North Carolina or National Wild and Scenic River, Native or Special Native Trout Waters, National Wildlife Refuge, etc, which do not provide any water quality protection;
- (4) the waters represent an important component of a state or national park or forest; or
- (5) the waters are of special ecological or scientific significance such as habitat for rare or endangered species or as areas for research and education.

(c) Quality Standards for ORW.

- (1) Freshwater: Water quality conditions shall clearly maintain and protect the outstanding resource values of waters classified ORW. Management strategies to protect resource values will be developed on a site specific basis during the proceedings to classify waters as ORW. At a minimum, no new discharges or expansions of existing discharges will be permitted, and stormwater controls for all new development activities requiring a Sediment/Erosion Control Plan will be required as follows:

(A) Low Density Option: Developments which limit single family developments to one acre lots and other type developments to 12 percent built-upon area, have no stormwater collection system as defined in 15A NCAC 2H .1002(13), and have built-upon areas at least 30 feet from surface water areas will be deemed to comply with this requirement.

(B) High Density Development: Higher density developments will be allowed if stormwater control systems utilizing wet detention ponds as described in 15A NCAC 2H .1003(i), (k) and (l) are installed, operated and maintained which control the runoff from all built-upon areas generated from one inch of rainfall. The size of the control system must take into account the runoff from any pervious surfaces draining to the system.

More stringent requirements may be required by the Environmental Management Commission on a site specific basis.

- (2) Saltwater: Water quality conditions shall clearly maintain and protect the outstanding resource values of waters classified ORW. Management strategies to protect resource values will be developed on a site-specific basis during the proceedings to classify waters as ORW. At a minimum, new development will comply with the low density options as specified in the Stormwater Runoff Disposal rules [16 NCAC 2H .1003 (a)(2)] within 575 feet of the mean high water line of the designated ORW area. New non-discharge permits will be required to meet reduced loading rates and increased buffer zones, to be determined on a case-by-case basis. No dredge or fill activities will be allowed where significant shellfish or submerged aquatic vegetation bed resources occur, except for maintenance dredging, such as that required to maintain access to existing channels and facilities located within the designated areas or maintenance dredging for activities such as agriculture. A public hearing is mandatory for any proposed permits to discharge to waters classified as ORW.

Additional actions to protect resource values will be considered on a site specific basis during the proceedings to classify waters as ORW and will be specified in Paragraph (e) of this Rule. These actions may include anything within the powers of the commission. The commission will also consider local actions which have been taken to protect a water body in determining the appropriate state protection options. Descriptions of boundaries of waters classified as ORW are included in Paragraph (e) of this Rule and in the Schedule of Classifications (15A NCAC 2B .0302 through .0317) as specified for the appropriate river basin and will also be described on maps maintained by the Division of Environmental Management.

(d) Petition Process. Any person may petition the Commission to classify a surface water of the state as an ORW. The petition shall identify the exceptional resource value to be protected, address how the water body meets the general criteria in Paragraph (a) of this Rule, and the suggested actions to protect the resource values. The Commission may request additional supporting information from the petitioner. The Commission or its designee will initiate public proceedings to classify waters as ORW or will inform the petitioner that the waters do not meet

the criteria for ORW with an explanation of the basis for this decision. The petition should be sent to:

Director
Division of Environmental Management
P.O. Box 27687

Raleigh, North Carolina 27611-7687

The envelope containing the petition should clearly bear the notation: RULE-MAKING PETITION FOR ORW CLASSIFICATION.

(e) Listing of Waters Classified ORW with Specific Actions. Waters classified as ORW with specific actions to protect exceptional resource values are listed as follows:

- (1) Roosevelt Natural Area [White Oak River Basin, Index Nos. 20-36-9.5-(1) and 20-36-9.5-(2)] including all fresh and saline waters within the property boundaries of the natural area will have only new development which complies with the low density option in the stormwater rules as specified in 15A NCAC 2H .1003(a)(2) within 575 feet of the Roosevelt Natural Area (if the development site naturally drains to the Roosevelt Natural Area).
- (2) Chattooga River ORW Area (Little Tennessee River Basin and Savannah River Drainage Area): the following undesignated waterbodies that are tributary to ORW designated segments shall comply with Rule .0216(c) of this Section in order to protect the designated waters as per Rule .0203 of this Section. However, expansions of existing discharges to these segments will be allowed if there is no increase in pollutant loading:
 - (A) North and South Fowler Creeks,
 - (B) Green and Norton Mill Creeks,
 - (C) Cane Creek,
 - (D) Ammons Branch,
 - (E) Glade Creek, and
 - (F) Associated tributaries.
- (3) Henry Fork ORW Area (Catawba River Basin): the following undesignated waterbodies that are tributary to ORW designated segments shall comply with Rule .0216(c) of this Section in order to protect the designated waters as per Rule .0203 of this Section:
 - (A) Ivy Creek,
 - (B) Rock Creek, and
 - (C) Associated tributaries.
- (4) South Fork New and New Rivers ORW Area (New River Basin) (Index Nos. 10-1-33.5 and 10): the following management strategies, in addition to the discharge requirements specified in Rule

.0216(c)(1), will be applied to protect the designated ORW areas:

- (A) Stormwater controls described in Rule .0216(c)(1) will apply within one mile and draining to the designated ORW areas;
- (B) New or expanded NPDES permitted wastewater discharges located upstream of the designated ORW will be permitted such that the following water quality standards are maintained in the ORW segment:
 - (i) the total volume of treated wastewater for all upstream discharges combined will not exceed 50 percent of the total instream flow in the designated ORW under 7Q10 conditions;
 - (ii) a safety factor will be applied to any chemical allocation such that the effluent limitation for a specific chemical constituent will be the more stringent of either the limitation allocated under design conditions for the normal standard at the point of discharge, or the limitation allocated under design conditions for one-half the normal standard at the upstream border of the ORW segment;
 - (iii) a safety factor will be applied to any discharge of complex wastewater (those containing or potentially containing toxicants) to protect for chronic toxicity in the ORW segment by setting the whole effluent toxicity limitation at the higher (more stringent) percentage effluent determined under design conditions for either the instream effluent concentration at the point of discharge or twice the effluent concentration calculated as if the discharge were at the upstream border of the ORW segment;
- (C) New or expanded NPDES permitted wastewater discharges located upstream of the designated ORW will comply with the following:
 - (i) Oxygen Consuming Wastes: Effluent limitations will be as follows: BOD = 5 mg/l, and NH₃-N = 2 mg/l;
 - (ii) Total Suspended Solids: Discharges of total suspended solids (TSS) will be limited to effluent concentrations of 10 mg/l for trout waters and to 20 mg/l for all other waters;
 - (iii) Emergency Requirements: Failsafe treatment designs will be employed, including stand-by power capability for entire treatment works, dual train design for all treatment components, or equivalent failsafe treatment designs;

- (iv) Nutrients: Where nutrient overenrichment is projected to be a concern, appropriate effluent limitations will be set for phosphorus or nitrogen, or both;
- (D) All expanded NPDES wastewater discharges upstream of the designated ORW will be required to provide the treatment described in Part (e)(4)(C) of this Rule, except for those existing discharges which expand with no increase in permitted pollutant loading.
- (5) *Editor's Note: The proposed text for this Subparagraph is contained in a separate notice of hearing found on page 1523 in this issue of the Register (6:20 NCR 1523).*
- (6) Old Field Creek (New River Basin): the undesignated portion of Old Field Creek (from its source to Call Creek) shall comply with Rule .0216(c) of this Section in order to protect the designated waters as per Rule .0203 of this Section.
- (7) ~~(4)~~ In the following designated waterbodies, no additional restrictions will be placed on new or expanded marinas. The only new or expanded NPDES permitted discharges that will be allowed will be non-domestic, non-process industrial discharges.
- (A) The Alligator River Area (Pasquotank River Basin) extending from the source of the Alligator River to the U.S. Highway 64 bridge including New Lake Fork, North West Fork Alligator River, Juniper Creek, Southwest Fork Alligator River, Scouts Bay, Gum Neck Creek, Georgia Bay, Winn Bay, Stumpy Creek Bay, Stumpy Creek, Swann Creek (Swann Creek Lake), Whipping Creek (Whipping Creek Lake), Grapevine Bay, Rattlesnake Bay, The Straits, The Frying Pan, Coopers Creek, Babbitt Bay, Goose Creek, Milltail Creek, Boat Bay, Sandy Ridge Gut (Sawyer Lake) and Second Creek, but excluding the Intracoastal Waterway (Pungo River-Alligator River Canal) and all other tributary streams and canals.
- (8) ~~(5)~~ In the following designated waterbodies, the only type of new or expanded marina that will be allowed will be those marinas located in upland basin areas. The only new or expanded NPDES permitted discharges that will be allowed will be non-domestic, non-process industrial discharges.
- (A) The Northeast Swanquarter Bay Area including all waters northeast of a line from a point at Lat. 35° 23' 51" and Long. 76° 21' 02" thence southeast along the Swanquarter National Wildlife Refuge hunting closure boundary (as defined by the 1935 Presidential Proclamation) to Drum Point.
- (B) The Neuse-Southeast Pamlico Sound Area (Southeast Pamlico Sound Area (Southeast Pamlico Sound Section of the Southeast Pamlico, Core and Back Sound Area); (Neuse River Basin) including all waters within an area defined by a line extending from the southern shore of Ocracoke Inlet northwest to the Tar-Pamlico River and Neuse River basin boundary, then southwest to Ship Point.
- (C) The Core Sound Section of the Southeast Pamlico, Core and Back Sound Area (White Oak River Basin) including all waters of Core Sound, and its tributaries, and the portion of the Atlantic Harbor Restricted Area that is open to shellfishing, but excluding Nelson Bay the Atlantic Harbor Restricted Area and those tributaries of Jarrett Bay that are closed to shellfishing.
- (D) The Western Bogue Sound Section of the Western Bogue Sound and Bear Island Area (White Oak River Basin) including all waters within an area defined by a line from Bogue Inlet to the mainland at SR 1117 to a line across Bogue Sound from the southwest side of Gales Creek to Rock Point, including Taylor Bay and the Intracoastal Waterway.
- (E) The Stump Sound Area (Cape Fear River Basin) including all waters of Stump Sound and Alligator Bay from marker Number 17 to the western end of Permuda Island, but excluding Rogers Bay, the Kings Creek Restricted Area and Mill Creek.
- (F) The Topsail Sound and Middle Sound Area (Cape Fear River Basin) including all estuarine waters from New Topsail Inlet to Mason Inlet, including the Intracoastal Waterway and Howe Creek, but excluding Pages Creek and Futch Creek.
- (9) ~~(6)~~ In the following designated waterbodies, no new or expanded NPDES permitted discharges and no new or expanded marinas will be allowed.
- (A) The Swanquarter Bay and Juniper Bay Area (Tar-Pamlico River Basin) including all waters within a line beginning at Juniper Bay Point and running south and

then west below Great Island, then northwest to Shell Point and including Shell Bay, Swanquarter and Juniper Bays and their tributaries, but excluding all waters northeast of a line from a point at Lat. 35° 23' 51" and Long. 76° 21' 02" thence southeast along the Swanquarter National Wildlife Refuge hunting closure boundary (as defined by the 1935 Presidential Proclamation) to Drum Point and also excluding the Blowout Canal, Hydeland Canal, Juniper Canal and Quarter Canal.

(B) The Back Sound Section of the Southeast Pamlico, Core and Back Sound Area (White Oak River Basin) including that area of Back Sound extending from Core Sound west along Shackleford Banks, then north to the western most point of Middle Marshes and along the northwest shore of Middle Marshes (to include all of Middle Marshes), then west to Rush Point on Harker's Island, and along the southern shore of Harker's Island back to Core Sound.

(C) The Bear Island Section of the Western Bogue Sound and Bear Island Area (White Oak River Basin) including all waters within an area defined by a line from the western most point on Bear Island to the northeast mouth of Goose Creek on the mainland, east to the southwest mouth of Queen Creek, then south to green marker No. 49, then northeast to the northern most point on Huggins Island, then southeast along the shoreline of Huggins Island to the southeastern most point of Huggins Island, then south to the northeastern most point on Dudley Island, then southwest along the shoreline of Dudley Island to the eastern tip of Bear Island.

(D) The Masonboro Sound Area (Cape Fear River Basin) including all waters between the Barrier Islands and the mainland from Carolina Beach Inlet to Masonboro Inlet.

Statutory Authority G.S. 143-214.1.

SECTION .0300 - ASSIGNMENT OF STREAM CLASSIFICATIONS

.0305 WATAUGA RIVER BASIN

(a) Places where the schedule may be inspected:

- (1) Clerk of Court:
Avery County
Watauga County

- (2) North Carolina Department of Natural Resources and Community Development
Asheville Regional Office
Interchange Building
159 Woodfin Street
Asheville, North Carolina

(b) Unnamed Streams. Such streams entering the State of Tennessee are classified "C."

(c) The Watauga River Basin Schedule of Classifications and Water Quality Standards was amended effective:

- (1) August 12, 1979;
- (2) February 1, 1986;
- (3) October 1, 1987;
- (4) August 1, 1989;
- (5) August 1, 1990;
- (6) December 1, 1990;
- (7) August 1, 1992.

(d) The Schedule of Classifications and Water Quality Standards for the Watauga River Basin was amended effective July 1, 1989 as follows:

- (1) Dutch Creek (Index No. 8-11) was reclassified from Class C-trout to Class B-trout.
- (2) Pond Creek (Index No. 8-20-2) from water supply intake (located just above Tamarack Road) to Beech Creek and all tributary waters were reclassified from Class WS-III to C.

(e) The Schedule of Classifications and Water Quality Standards for the Watauga River Basin was amended effective December 1, 1990 with the reclassification of the Watauga River from the US Highway 321 bridge to the North Carolina Tennessee state line from Class C to Class B.

(f) The Schedule of Classifications and Water Quality Standards for the Watauga River Basin has been amended effective August 1, 1992 with the reclassification of Boone Fork (Index No. 8-7) and all tributary waters from Classes C Tr IIQW and C IIQW to Classes C Tr ORW and C ORW.

Statutory Authority G.S. 143-214.1; 143-215.1; 143-215.3(a)(1).

.0307 NEW RIVER BASIN

(a) Places where the schedules may be inspected:

- (1) Clerk of Court:
Alleghany County
Ashe County
Watauga County
- (2) North Carolina Department of Natural Resources and Community Development:
(A) Asheville Regional Office
Interchange Building
159 Woodfin Street

Asheville, North Carolina

(B) Winston-Salem Regional Office
8003 Silas Creek Parkway Extension
Winston-Salem, North Carolina

(b) Unnamed Streams. Such streams entering the State of Tennessee are classified "C".

(c) The New River Basin Schedule of Classifications and Water Quality Standards was amended effective:

- (1) August 10, 1980;
- (2) April 1, 1983;
- (3) February 1, 1986;
- (4) August 1, 1989;
- (5) August 1, 1990;
- (6) August 1, 1992.

(d) The Schedule of Classifications and Water Quality Standards for the New River Basin was amended effective July 1, 1989 as follows:

- (1) South Fork New River [Index No. 10-1-(30)] from Dog Creek to New River and all tributary waters were reclassified from Class C-trout and Class C to Class B-trout and B.

(e) The Schedule of Classifications and Water Quality Standards for the New River Basin has been amended effective August 1, 1992 as follows:

- (1) the South Fork New River (Index No. 10-1-33.5) from Dog Creek to the New River was reclassified from Class B HQW to Class B ORW;
- (2) the New River (Index No. 10) from the confluence of the North and South Fork New Rivers to the last point at which it crosses the NC/VA State line was reclassified from Class C HQW to Class C ORW; and
- (3) Old Field Creek (Index No. 10-1-22) from Call Creek to the South Fork New River, and Call Creek (Index No. 10-1-22-1) from its source to Old Field Creek were reclassified from Class C Trout to Class C Trout ORW.

Statutory Authority G.S. 143-214.1; 143-215.1; 143-215.3(a)(1).

* * * * *

Notice is hereby given in accordance with G.S. 150B-21.2 that the EHNR - Environmental Management Commission intends to amend rule(s) cited as 15A NCAC 2B .0216 and .0312.

The proposed effective date of this action is August 1, 1992.

The public hearing will be conducted at 7:00 p.m. on March 23, 1992 at the Joslyn Hall (Auditorium), Carteret Community College, 3505 Arendell Street, Morehead City, NC.

Reason for Proposed Action: To reclassify the Atlantic Harbor Restricted Area in the White Oak River Basin.

Comment Procedures: All persons interested in this matter are invited to attend. Comments, statements, data and other information may be submitted in writing prior to, during or within 30 days after the hearing or may be presented verbally at the hearing. Verbal statements may be limited at the discretion of the hearing officer. Submittal of written copies of verbal statements is encouraged.

Fiscal Note: This Rule affects the expenditures or revenues of local funds. A fiscal note was submitted to the Fiscal Research Division on December 18, 1991, OSBM on December 18, 1991, N.C. League of Municipalities on December 18, 1991, and N.C. Association of County Commissioners on December 18, 1991.

CHAPTER 2 - ENVIRONMENTAL MANAGEMENT

SUBCHAPTER 2B - SURFACE WATER STANDARDS: MONITORING

SECTION .0200 - CLASSIFICATIONS AND WATER QUALITY STANDARDS APPLICABLE TO SURFACE WATERS OF NORTH CAROLINA

.0216 OUTSTANDING RESOURCE WATERS

(a) General. In addition to the existing classifications, the Commission may classify certain unique and special surface waters of the state as outstanding resource waters (ORW) upon finding that such waters are of exceptional state or national recreational or ecological significance and that the waters have exceptional water quality while meeting the following conditions:

- (1) there are no significant impacts from pollution with the water quality rated as excellent based on physical, chemical and/or biological information;
- (2) the characteristics which make these waters unique and special may not be protected by the assigned narrative and numerical water quality standards.

(b) Outstanding Resource Values. In order to be classified as ORW, a water body must exhibit one or more of the following values or uses to

demonstrate it is of exceptional state or national recreational or ecological significance:

- (1) there are outstanding fish (or commercially important aquatic species) habitat and fisheries;
- (2) there is an unusually high level of water-based recreation or the potential for such recreation;
- (3) the waters have already received some special designation such as a North Carolina or National Wild and Scenic River, Native or Special Native Trout Waters, National Wildlife Refuge, etc, which do not provide any water quality protection;
- (4) the waters represent an important component of a state or national park or forest; or
- (5) the waters are of special ecological or scientific significance such as habitat for rare or endangered species or as areas for research and education.

(c) Quality Standards for ORW.

- (1) Freshwater: Water quality conditions shall clearly maintain and protect the outstanding resource values of waters classified ORW. Management strategies to protect resource values will be developed on a site specific basis during the proceedings to classify waters as ORW. At a minimum, no new discharges or expansions of existing discharges will be permitted, and stormwater controls for all new development activities requiring a Sediment Erosion Control Plan will be required as follows:

(A) Low Density Option: Developments which limit single family developments to one acre lots and other type developments to 12 percent built-upon area, have no stormwater collection system as defined in 15A NCAC 2II .1002(13), and have built-upon areas at least 30 feet from surface water areas will be deemed to comply with this requirement.

(B) High Density Development: Higher density developments will be allowed if stormwater control systems utilizing wet detention ponds as described in 15A NCAC 2II .1003(i), (k) and (l) are installed, operated and maintained which control the runoff from all built-upon areas generated from one inch of rainfall. The size of the control system must take into account the runoff from any pervious surfaces draining to the system.

More stringent requirements may be required by the Environmental Management Commission on a site specific basis.

- (2) Saltwater: Water quality conditions shall clearly maintain and protect the outstanding resource values of waters classified ORW. Management strategies to protect resource values will be developed on a site-specific basis during the proceedings to classify waters as ORW. At a minimum, new development will comply with the low density options as specified in the Stormwater Runoff Disposal rules [16 NCAC 2H .1003 (a)(2)] within 575 feet of the mean high water line of the designated ORW area. New non-discharge permits will be required to meet reduced loading rates and increased buffer zones, to be determined on a case-by-case basis. No dredge or fill activities will be allowed where significant shellfish or submerged aquatic vegetation bed resources occur, except for maintenance dredging, such as that required to maintain access to existing channels and facilities located within the designated areas or maintenance dredging for activities such as agriculture. A public hearing is mandatory for any proposed permits to discharge to waters classified as ORW.

Additional actions to protect resource values will be considered on a site specific basis during the proceedings to classify waters as ORW and will be specified in Paragraph (e) of this Rule. These actions may include anything within the powers of the commission. The commission will also consider local actions which have been taken to protect a water body in determining the appropriate state protection options. Descriptions of boundaries of waters classified as ORW are included in Paragraph (e) of this Rule and in the Schedule of Classifications (15A NCAC 2B .0302 through .0317) as specified for the appropriate river basin and will also be described on maps maintained by the Division of Environmental Management.

(d) Petition Process. Any person may petition the Commission to classify a surface water of the state as an ORW. The petition shall identify the exceptional resource value to be protected, address how the water body meets the general criteria in Paragraph (a) of this Rule, and the suggested actions to protect the resource values. The Commission may request additional supporting information from the petitioner. The Commission or its designee will initiate public proceedings to classify waters as ORW or will inform the petitioner that the waters do not meet

the criteria for ORW with an explanation of the basis for this decision. The petition should be sent to:

Director
Division of Environmental Management
P.O. Box 27687

Raleigh, North Carolina 27611-7687

The envelope containing the petition should clearly bear the notation: RULE-MAKING PETITION FOR ORW CLASSIFICATION.

(e) Listing of Waters Classified ORW with Specific Actions. Waters classified as ORW with specific actions to protect exceptional resource values are listed as follows:

- (1) Roosevelt Natural Area [White Oak River Basin, Index Nos. 20-36-9.5-(1) and 20-36-9.5-(2)] including all fresh and saline waters within the property boundaries of the natural area will have only new development which complies with the low density option in the stormwater rules as specified in 15A NCAC 2H .1003(a)(2) within 575 feet of the Roosevelt Natural Area (if the development site naturally drains to the Roosevelt Natural Area).

- (2) Chattooga River ORW Area (Little Tennessee River Basin and Savannah River Drainage Area): the following undesignated waterbodies that are tributary to ORW designated segments shall comply with Rule .0216(c) of this Section in order to protect the designated waters as per Rule .0203 of this Section. However, expansions of existing discharges to these segments will be allowed if there is no increase in pollutant loading:

- (A) North and South Fowler Creeks,
- (B) Green and Norton Mill Creeks,
- (C) Cane Creek,
- (D) Ammons Branch,
- (E) Glade Creek, and
- (F) Associated tributaries.

- (3) Henry Fork ORW Area (Catawba River Basin): the following undesignated waterbodies that are tributary to ORW designated segments shall comply with Rule .0216(c) of this Section in order to protect the designated waters as per Rule .0203 of this Section:

- (A) Ivy Creek,
- (B) Rock Creek, and
- (C) Associated tributaries.

- (4) *Editor's Note: The proposed text for this Subparagraph is contained in a separate notice of hearing found on page 1527 in this issue of the Register (6:20 NCR 1527).*

- (5) *Editor's Note: The proposed text for this Subparagraph is contained in a separate notice of hearing found on page 1523 in this issue of the Register (6:20 NCR 1523).*

- (6) *Editor's Note: The proposed text for this Subparagraph is contained in a separate notice of hearing found on page 1528 in this issue of the Register (6:20 NCR 1528).*

- (7) ~~(4)~~ In the following designated waterbodies, no additional restrictions will be placed on new or expanded marinas. The only new or expanded NPDES permitted discharges that will be allowed will be non-domestic, non-process industrial discharges.

- (A) The Alligator River Area (Pasquotank River Basin) extending from the source of the Alligator River to the U.S. Highway 64 bridge including New Lake Fork, North West Fork Alligator River, Juniper Creek, Southwest Fork Alligator River, Scouts Bay, Gum Neck Creek, Georgia Bay, Winn Bay, Stumpy Creek Bay, Stumpy Creek, Swann Creek (Swann Creek Lake), Whipping Creek (Whipping Creek Lake), Grapevine Bay, Rattlesnake Bay, The Straits, The Frying Pan, Coopers Creek, Babbitt Bay, Goose Creek, Milltail Creek, Boat Bay, Sandy Ridge Gut (Sawyer Lake) and Second Creek, but excluding the Intracoastal Waterway (Pungo River-Alligator River Canal) and all other tributary streams and canals.

- ~~(8)~~ ~~(5)~~ In the following designated waterbodies, the only type of new or expanded marina that will be allowed will be those marinas located in upland basin areas. The only new or expanded NPDES permitted discharges that will be allowed will be non-domestic, non-process industrial discharges.

- (A) The Northeast Swanquarter Bay Area including all waters northeast of a line from a point at Lat. 35° 23' 51" and Long. 76° 21' 02" thence southeast along the Swanquarter National Wildlife Refuge hunting closure boundary (as defined by the 1935 Presidential Proclamation) to Drum Point.

- (B) The Neuse-Southeast Pamlico Sound Area (Southeast Pamlico Sound Area (Southeast Pamlico Sound Section of the Southeast Pamlico, Core and Back Sound Area); (Neuse River Basin) including all waters within an area defined by a line

- extending from the southern shore of Ocracoke Inlet northwest to the Tar-Pamlico River and Neuse River basin boundary, then southwest to Ship Point.
- (C) The Core Sound Section of the Southeast Pamlico, Core and Back Sound Area (White Oak River Basin) including all waters of Core Sound, ~~and its tributaries, and the portion of the Atlantic Harbor Restricted Area that is open to shellfishing, but excluding Nelson Bay the Atlantic Harbor Restricted Area~~ and those tributaries of Jarrett Bay that are closed to shellfishing.
- (D) The Western Bogue Sound Section of the Western Bogue Sound and Bear Island Area (White Oak River Basin) including all waters within an area defined by a line from Bogue Inlet to the mainland at SR 1117 to a line across Bogue Sound from the southwest side of Gales Creek to Rock Point, including Taylor Bay and the Intracoastal Waterway.
- (E) The Stump Sound Area (Cape Fear River Basin) including all waters of Stump Sound and Alligator Bay from marker Number 17 to the western end of Permuda Island, but excluding Rogers Bay, the Kings Creek Restricted Area and Mill Creek.
- (F) The Topsail Sound and Middle Sound Area (Cape Fear River Basin) including all estuarine waters from New Topsail Inlet to Mason Inlet, including the Intracoastal Waterway and Howe Creek, but excluding Pages Creek and Futch Creek.
- (9) ~~(6)~~ In the following designated waterbodies, no new or expanded NPDES permitted discharges and no new or expanded marinas will be allowed.
- (A) The Swanquarter Bay and Juniper Bay Area (Tar-Pamlico River Basin) including all waters within a line beginning at Juniper Bay Point and running south and then west below Great Island, then northwest to Shell Point and including Shell Bay, Swanquarter and Juniper Bays and their tributaries, but excluding all waters northeast of a line from a point at Lat. 35° 23' 51" and Long. 76° 21' 02" thence southeast along the Swanquarter National Wildlife Refuge hunting closure boundary (as defined by the 1935 Presidential Proclamation) to Drum Point and also excluding the Blowout Canal, Hydeland Canal, Juniper Canal and Quarter Canal.
- (B) The Back Sound Section of the Southeast Pamlico, Core and Back Sound Area (White Oak River Basin) including that area of Back Sound extending from Core Sound west along Shackelford Banks, then north to the western most point of Middle Marshes and along the northwest shore of Middle Marshes (to include all of Middle Marshes), then west to Rush Point on Harker's Island, and along the southern shore of Harker's Island back to Core Sound.
- (C) The Bear Island Section of the Western Bogue Sound and Bear Island Area (White Oak River Basin) including all waters within an area defined by a line from the western most point on Bear Island to the northeast mouth of Goose Creek on the mainland, east to the southwest mouth of Queen Creek, then south to green marker No. 49, then northeast to the northern most point on Huggins Island, then southeast along the shoreline of Huggins Island to the southeastern most point of Huggins Island, then south to the northeastern most point on Dudley Island, then southwest along the shoreline of Dudley Island to the eastern tip of Bear Island.
- (D) The Masonboro Sound Area (Cape Fear River Basin) including all waters between the Barrier Islands and the mainland from Carolina Beach Inlet to Masonboro Inlet.

Statutory Authority G.S. 143-214.1.

SECTION .0300 - ASSIGNMENT OF STREAM CLASSIFICATIONS

.0312 WHITE OAK RIVER BASIN

- (a) Places where the schedules may be inspected:
- (1) Clerk of Court:
Carteret County
Craven County
Jones County
Onslow County
 - (2) North Carolina Department of Natural Resources and Community Development:
 - (A) Washington Regional Office
1502 North Market Street
Washington, North Carolina
 - (B) Wilmington Regional Office
7225 Wrightsville Avenue
Wilmington, North Carolina

(b) The White Oak River Basin Schedule of Classification and Water Quality Standards was amended effective:

- (1) December 13, 1979;
- (2) June 1, 1988;
- (3) January 1, 1990;
- (4) August 1, 1990;
- (5) August 1, 1991;
- (6) August 1, 1992.

(c) The Schedule of Classifications and Water Quality Standards for the White Oak River Basin has been amended effective January 1, 1990 as follows:

- (1) Intracoastal Waterway (Index No. 19-39) from northeastern boundary of Cape Fear River Basin to Daybeacon No. 17 including all unnamed bays, guts, and channels, except Rogers Bay and Mill Creek and Intracoastal Waterway (Index No. 19-41) from the northeast mouth of Goose Creek to the southwest mouth of Queen Creek were reclassified from Class SA to Class SA ORW.
- (2) Bear Island ORW Area, which includes all waters within an area north of Bear Island defined by a line from the western most point on Bear Island to the northeast mouth of Goose Creek on the mainland, east to the southwest mouth of Queen Creek, then south to green marker No. 49, then northeast to the northern most point on Huggins Island, then southeast along the shoreline of Huggins Island to the southeastern most point of Huggins Island, then south to the northeastern most point on Dudley Island, then southwest along the shoreline of Dudley Island to the eastern tip of Bear Island to the western mouth of Foster Creek including Cow Channel were reclassified from Class SA to Class SA ORW.
- (3) Bogue Sound (including Intracoastal Waterway from White Oak River Basin to Beaufort Inlet) (Index No. 20-36) from Bogue Inlet to a line across Bogue Sound from the southwest side of mouth of Gales Creek to Rock Point and all tributaries except Hunting Island Creek, Goose Creek, and Broad Creek were reclassified from Class SA to Class SA ORW.
- (4) Core Sound (Index No. 21-35-7) from northern boundary of White Oak River Basin (a line from Hall Point to Drum Inlet) to Back Sound and all tributaries except Atlantic Harbor Restricted Area, Nelson Bay, Jarrett Bay, Williston Creek, Wade Creek and Middens Creek were re-

classified from Class SA to Class SA ORW.

- (5) Back Sound (Index No. 21-35) from a point on Shackelford Banks at lat. 34 degrees 40' 57" and long 76 degrees 37' 30" north to the western most point of Middle Marshes and along the northwest shoreline of Middle Marshes (to include all of Middle Marshes) to Rush Point on Harkers Island and along the southern shore of Harkers Island back to Core Sound and all tributaries were reclassified from Class SA to Class SA ORW.

(d) The Schedule of Classifications and Water Quality Standards for the White Oak River Basin was amended effective August 1, 1991 by adding the supplemental classification NSW (Nutrient Sensitive Waters) to all waters in the New River Drainage Area above a line running across the New River from Grey Point to a point of land approximately 2,200 yards downstream of the mouth of Duck Creek.

(e) The Schedule of Classifications and Water Quality Standards for the White Oak River Basin has been amended effective August 1, 1992 with the reclassification of the Atlantic Harbor Restricted Area (Index No. 21-25-7-2) from Class SC to Class SA ORW.

Statutory Authority G.S. 143-214.1; 143-215.1; 143-215.3(a)(1).

* * * * *

Notice is hereby given in accordance with G.S. 150B-21.2 that the EHN - Environmental Management Commission intends to amend rule(s) cited as 15A NCAC 2B .0309.

The proposed effective date of this action is August 1, 1992.

The public hearing will be conducted at 7:00 p.m. on March 18, 1992 at the Courtroom, Wilkes County Courthouse, Main Street, Wilkesboro, NC.

Reason for Proposed Action: To reclassify Pike, Widows, Rich Mountain, Basin and Bullhead Creeks and portions of Endicott and Little Endicott Creeks in the Yadkin-PeeDee River Basin.

Comment Procedures: All persons interested in this matter are invited to attend. Comments statements, data and other information may be

submitted in writing prior to, during or within 30 days after the hearing or may be presented verbally at the hearing. Verbal statements may be limited at the discretion of the hearing officer. Submittal of written copies of verbal statements is encouraged.

Fiscal Note: This Rule affects the expenditures or revenues of local funds. A fiscal note was submitted to the Fiscal Research Division on December 18, 1991, OSBM on December 18, 1991, N.C. League of Municipalities on December 18, 1991, and N.C. Association of County Commissioners on December 18, 1991.

CHAPTER 2 - ENVIRONMENTAL MANAGEMENT

SUBCHAPTER 2B - SURFACE WATER STANDARDS: MONITORING

SECTION .0300 - ASSIGNMENT OF STREAM CLASSIFICATIONS

.0309 YADKIN-PEE DEE RIVER BASIN

(a) Places where the schedule may be inspected:

- (1) Clerk of Court:
Alexander County
Anson County
Cabarrus County
Caldwell County
Davidson County
Davie County
Forsyth County
Guilford County
Iredell County
Mecklenburg County
Montgomery County
Randolph County
Richmond County
Rowan County
Stanly County
Stokes County
Surry County
Union County
Watauga County
Wilkes County
Yadkin County

(2) North Carolina Department of Natural Resources and Community Development:

- (A) Mooresville Regional Office
1119 North Main Street
Mooresville, North Carolina
- (B) Winston-Salem Regional Office
8003 Silas Creek Parkway Extension
Winston-Salem, North Carolina
- (C) Fayetteville Regional Office
Wachovia Building
Suite 714

Fayetteville, North Carolina
(D) Asheville Regional Office
Interchange Building
159 Woodfin Street
Asheville, North Carolina

(b) Unnamed Streams. Such streams entering Virginia are classified "C," and such streams entering South Carolina are classified "A-II."

(c) The Yadkin-Pee Dee River Basin Schedule of Classifications and Water Quality Standards was amended effective:

- (1) February 12, 1979;
- (2) March 1, 1983;
- (3) August 1, 1985;
- (4) February 1, 1986;
- (5) October 1, 1988;
- (6) March 1, 1989;
- (7) January 1, 1990;
- (8) August 1, 1990;
- (9) January 1, 1992;
- (10) August 1, 1992.

(d) The Schedule of Classifications and Water Quality Standard for the Yadkin-Pee Dee River Basin has been amended effective October 1, 1988 as follows:

- (1) Mitchell River [Index No. 12-62-(1)] from source to mouth of Christian Creek (North Fork Mitchell River) including all tributaries has been reclassified from Class B Tr to Class B Tr ORW.
- (2) Mitchell River [Index No. 12-62-(7)] from mouth of Christian Creek (North Fork Mitchell River) to Surry County SR 1315 including all tributaries has been classified from Class C Tr to C Tr ORW, except Christian Creek and Robertson Creek which will be reclassified from Class B Tr to Class B Tr ORW.
- (3) Mitchell River [Index No. 12-62-(12)] from Surry County SR 1315 to mouth of South Fork Mitchell River including all tributaries from Class C to Class C ORW.

(e) The Schedule of Classifications and Water Quality Standards for the Yadkin-Pee Dee River Basin was amended effective March 1, 1989 as follows:

- (1) Elk Creek [Index Nos. 12-24-(1) and 12-24-(10)] and all tributary waters were reclassified from Class B-trout, Class C-trout and Class B to Class B-trout ORW, Class C-trout ORW and Class B ORW.

(f) The Schedule of Classifications and Water Quality Standards for the Yadkin-Pee Dee River Basin was amended effective January 1, 1990 as follows: Barnes Creek (Index No. 13-2-18) was reclassified from Class C to Class C ORW.

(g) The Schedule of Classifications and Water Quality Standards for the Yadkin-Pee Dee River

Basin has been amended effective January 1, 1992 as follows:

- (1) Little River [Index Nos. 13-25-(10) and 13-25-(19)] from Suggs Creek to Densons Creek has been reclassified from Classes WS-III and C to Classes WS-III HQW and C HQW.
 - (2) Densons Creek [Index No. 13-25-20-(1)] from its source to Troy's Water Supply Intake including all tributaries has been reclassified from Class WS-III to Class WS-III HQW.
 - (3) Bridgers Creek (Index No. 13-25-24) from its source to the Little River has been reclassified from Class C to Class C HQW.
- (h) The Schedule of Classifications and Water Quality Standards for the New River Basin has been amended effective August 1, 1992 as follows:

- (1) Endicott Creek [Index No. 12-63-5-(1)] from its source to Raven Knob Lake and Little Endicott Creek (Index No. 12-63-5-2) from its source to Raven Knob Lake were reclassified from Class B Tr to Class B Tr HQW;
- (2) Pike Creek (Index No. 12-46-1-2) was reclassified from Class C Tr to Class C Tr ORW;
- (3) Basin Creek (Index No. 12-46-2-2) was reclassified from Class C Tr to Class C Tr ORW;
- (4) Bullhead Creek (Index No. 12-46-4-2) was reclassified from Class C Tr to Class C Tr ORW;
- (5) Rich Mountain Creek (Index No. 12-46-4-2-2) was reclassified from Class Tr to Class C Tr ORW; and
- (6) Widows Creek (Index No. 12-46-4-4) was reclassified from Class C Tr HQW to Class C Tr ORW.

Statutory Authority G.S. 143-214.1; 143-215.1; 143-215.3(a)(1).

* * * * *

Notice is hereby given in accordance with G.S. 150B-21.2 that the DEHNR - DEM Groundwater Section intends to amend rule(s) cited as 15A NCAC 2L .0106; .0202; and 2N .0707.

The proposed effective date of this action is May 1, 1992.

The public hearing will be conducted at 7:00 p.m. on February 3, 1992 at the Ground Floor

Hearing Room, Archdale Building, 512 North Salisbury Street, Raleigh, NC.

Reason for Proposed Action: The proposed amendments will modify corrective action requirements for 15A NCAC 2N and 15A NCAC 2L. A groundwater standard for Methyl Tert-Butyl Ether is also proposed as an amendment to 15A NCAC 2L.

Comment Procedures: Interested persons may contact Randy Prillaman at (919) 733-3221 for more information regarding these rules. Written comments will be received for 30 days after publication of the notice. Mail written comments to: Randy Prillaman, DEHNR-DEM Groundwater Section, P.O. Box 29535, Raleigh, N.C. 27626-0535.

CHAPTER 2 - ENVIRONMENTAL MANAGEMENT

SUBCHAPTER 2L - GROUNDWATER CLASSIFICATION AND STANDARDS

SECTION .0100 - GENERAL CONSIDERATIONS

.0106 CORRECTIVE ACTION

(a) The goal of actions taken to restore groundwater quality shall be restoration to the level of the standards, or as close thereto as is economically and technologically feasible.

(b) Any person conducting or controlling an activity which results in the discharge of a waste or hazardous substance or oil to the groundwaters of the state, or in proximity thereto, shall take immediate action to terminate and control the discharge, mitigate any hazards resulting from exposure to the pollutants and notify the Department of the discharge.

(c) Any person conducting or controlling an activity which results in an increase in the concentration of a substance in excess of the groundwater standard:

- (1) as the result of activities, other than agricultural operations, not permitted by the state, shall assess the cause, significance and extent of the violation; submit a plan for eliminating the source of contamination and for restoration of groundwater quality; and implement the plan ~~in accordance with a Special Order by Consent or a Special Order of the Commission, as approved by, and in accordance with a schedule and format established by, the Director.~~
- (2) as a result of activities conducted under the authority of a permit issued by the state,

shall, where such concentrations are detected:

(A) at or beyond a review boundary, demonstrate, through predictive calculations or modeling, that natural site conditions, facility design and operational controls will prevent a violation of standards at the compliance boundary; or submit a plan for alteration of existing site conditions, facility design or operational controls that will prevent a violation at the compliance boundary, and implement that plan upon its approval by the Director.

(B) at or beyond a compliance boundary, shall, assess the cause, significance and extent of the violation of groundwater quality standards and submit the results of the investigation and a plan for groundwater quality restoration to the Director. ~~Upon approval by the Director, the~~ The permittee shall implement the plan in accordance with a Special Order by Consent or a Special Order of the Commission, as approved by, and in accordance with a schedule and format established by, the Director.

(d) In the evaluation of remedial action plans, the Director shall consider the extent of any violations, the extent of any threat to human health or safety, the extent of damage to the environment, technology available to accomplish restoration and the public and economic benefits to be derived from groundwater quality restoration.

(e) The Director may authorize the discontinuance of remedial action to restore groundwater quality to the level of the standard upon a dem-

onstration by the responsible party to the Director that continuance would not result in significant reduction in the concentration of contaminants. In the consideration of a request to discontinue remedial actions, the Director shall consider the duration and degree of success of remedial efforts, the feasibility of other treatment techniques which could result in further reduction of contaminant levels, and the effect on groundwater users if contaminants remain at levels existing at the time of termination of remedial action.

(f) Upon a determination by the Director that continued remedial actions would result in no significant reduction in contaminant concentrations, the responsible party shall petition for a variance or a reclassification of the impacted groundwaters.

(g) Where groundwater quality standards are exceeded as a result of the application of pesticides or other agricultural chemicals, the Director shall request the Pesticide Board or the Department of Agriculture to assist the Division of Environmental Management in determining the cause of the violation. If the violation is determined to have resulted from the use of pesticides, the Director shall request the Pesticide Board to take appropriate regulatory action to control the use of the chemical or chemicals responsible for, or contributing to, such violations, or to discontinue their use.

Statutory Authority G.S. 143-215.2; 143-215.3(a)(1); 143B-282.

SECTION .0200 - CLASSIFICATIONS AND WATER QUALITY STANDARDS

.0202 WATER QUALITY STANDARDS

(a) The water quality standards for the groundwaters of the state are those specified in this Rule. They are the maximum allowable concentrations resulting from any discharge of contaminants to the land or waters of the state, which may be tolerated without creating a threat to human health or which would otherwise render the groundwater unsuitable for its intended best usage. Where groundwater quality standards have been exceeded due to man's activities, restoration efforts shall be designed to restore groundwater quality to the level of the standard or as closely thereto as is practicable.

(b) The maximum allowable concentrations for contaminants specified in Paragraphs (g) and (h) of this Rule shall be as listed, except that:

- (1) Where the maximum allowable concentration of a substance is less than the limit of detectability, the substance shall not be permitted in detectable concentrations.
- (2) Where two or more substances exist in combination, the Director shall consider the effects of chemical interactions and may establish maximum concentrations at values less than those established in accordance with Paragraphs (c) and (g) of this Rule. In the absence of information to the contrary, the carcinogenic risks associated with carcinogens present shall be considered additive and the toxic effects associated with non-carcinogens present shall also be considered additive.
- (3) Where naturally occurring substances exceed the established standard, the standard will be the naturally occurring concentration as determined by the Director.

(c) Substances which are not naturally occurring and for which no standard is specified shall not be permitted in detectable concentrations in Class GA or Class GSA groundwaters. Any person may petition the Director to establish an interim maximum allowable concentration for an unspecified substance, however, the burden of demonstrating those concentrations of the substance which correspond to the levels described in Paragraph (d) of this Rule rests with the petitioner. The petitioner shall submit all toxicological and epidemiological data, study results, and calculations necessary to establish a standard in accordance with the procedure prescribed in Paragraph (d) of this Rule. Within three months after the establishment of an interim maximum allowable concentration for a substance by the Director, the Director shall initiate action to consider adoption of a standard for that substance.

(d) Maximum allowable concentrations for substances in Class GA and Class GSA waters are established as the lesser of:

- (1) Systemic threshold concentration calculated as follows: $[\text{Reference Dose (mg/kg/day)} \times 70 \text{ kg (adult body weight)} \times \text{Relative Source Contribution (.10 for inorganics; .20 for organics)}] / [2 \text{ liters/day (avg. water consumption)}]$;
- (2) Concentration which corresponds to an incremental lifetime cancer risk of 1×10^{-6} ;
- (3) Taste threshold limit value;
- (4) Odor threshold limit value;
- (5) Maximum contaminant level; or
- (6) National secondary drinking water standard.

(e) The following references, in order of preference, shall be used in establishing concentrations of substances which correspond to levels described in Paragraph (d) of this Rule.

- (1) Integrated Risk Information System (U.S. EPA).
- (2) Health Advisories (U.S. EPA Office of Drinking Water).
- (3) Other health risk assessment data published by U.S. EPA.
- (4) Other appropriate, published health risk assessment data.

(f) Water quality standards specified in Paragraphs (g) and (h) of this Rule and interim maximum allowable concentrations established pursuant to Paragraph (c) of this Rule shall be reviewed on a biennial basis. Appropriate modifications to established standards will be made in accordance with the procedure prescribed in Paragraph (d) of this Rule where modifications are considered appropriate based on data published subsequent to the previous review.

(g) Class GA Standards. Where not otherwise indicated, the standard refers to the total concentration in milligrams per liter of any constituent.

- (1) acrylamide (propenamide): 0.00001
 - (2) arsenic: 0.05
 - (3) barium: 1.0
 - (4) benzene: 0.001
 - (5) bromoform (tribromomethane): 0.00019
 - (6) cadmium: 0.005
 - (7) carbofuran: 0.036
 - (8) carbon tetrachloride: 0.0003
 - (9) chlordane: 2.7×10^{-5}
 - (10) chloride: 250.0
 - (11) chlorobenzene: 0.3
 - (12) chloroform (trichloromethane): 0.00019
 - (13) 2-chlorophenol: 0.0001
 - (14) chromium: 0.05
 - (15) cis-1,2-dichloroethene: 0.07
 - (16) coliform organisms (total): 1 per 100 milliliters
 - (17) color: 15 color units
 - (18) copper: 1.0
 - (19) cyanide: 0.154
 - (20) 2, 4-D (2,4-dichlorophenoxy acetic acid): 0.07
 - (21) 1,2-dibromo-3-chloropropane: 2.5×10^{-5}
 - (22) dichlorodifluoromethane (Freon-12; Halon): 0.00019
 - (23) 1,2-dichloroethane (ethylene dichloride): 0.00038
 - (24) 1,1-dichloroethylene (vinylidene chloride): 0.007
 - (25) 1,2-dichloropropane: 0.00056
 - (26) p-dioxane (1,4-diethylene dioxide): 0.007
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PROPOSED RULES

- (27) dioxin: 2.2×10^{-10}
 - (28) dissolved solids (total): 500
 - (29) endrin: 0.0002
 - (30) epichlorohydrin (1-chloro-2,3-epoxypropane): 0.00354
 - (31) ethylbenzene: 0.029
 - (32) ethylene dibromide (EDB; 1,2-dibromoethane): 0.05×10^{-5}
 - (33) ethylene glycol: 7.0
 - (34) flouride: 2.0
 - (35) foaming agents: 0.5
 - (36) gross alpha partiele activity (including radium-226 but excluding radon and uranium): 15 pCi l
 - (37) heptachlor: 7.6×10^{-5}
 - (38) heptachlor epoxide: 3.8×10^{-5}
 - (39) hexachlorobenzene (perchlorobenzene): 0.00002
 - (40) n-hexane: 14.3
 - (41) iron: 0.3
 - (42) lead: 0.05
 - (43) lindane: 2.65×10^{-5}
 - (44) manganese: 0.05
 - (45) mercury: 0.0011
 - (46) metadichlorobenzene (1,3-dichlorobenzene): 0.62
 - (47) methoxychlor: 0.1
 - (48) methylene chloride (dichloromethane): 0.005
 - (49) methyl ethyl ketone (MEK; 2-butanone): 0.17
 - (50) methyl tert-butyl ether: 0.05
 - ~~(51) (50) nickel: 0.15~~
 - ~~(52) (51) nitrate: (as N) 10.0~~
 - ~~(53) (52) nitrite: (as N) 1.0~~
 - ~~(54) (53) orthodichlorobenzene (1,2-dichlorobenzene): 0.62~~
 - ~~(55) (54) oxamyl: 0.175~~
 - ~~(56) (55) paradichlorobenzene (1,4-dichlorobenzene): 0.0018~~
 - ~~(57) (56) pentachlorophenol: 0.22~~
 - ~~(58) (57) pH: 6.5 - 8.5~~
 - ~~(59) (58) radium-226 and radium-228 (combined): 5 pCi/l~~
 - ~~(60) (59) selenium: 0.01~~
 - ~~(61) (60) silver: 0.05~~
 - ~~(62) (61) styrene (ethenylbenzene): 1.4×10^{-5}~~
 - ~~(63) (62) sulfate: 250.0~~
 - ~~(64) (63) tetrachloroethylene (perchloroethylene; PCE): 0.0007~~
 - ~~(65) (64) toluene (methylbenzene): 1.0~~
 - ~~(66) (65) toxaphene: 3.1×10^{-5}~~
 - ~~(67) (66) 2, 4, 5.-TP (Silvex): 0.01~~
 - ~~(68) (67) trans-1,2-dichloroethene: 0.07~~
 - ~~(69) (68) 1,1,1-trichloroethane (methyl chloroform): 0.2~~
 - ~~(70) (69) trichloroethylene (TCE): 0.0028~~
 - ~~(71) (70) vinyl chloride (chloroethylene): 1.5×10^{-5}~~
 - ~~(72) (71) xylenes (o-, m-, and p-): 0.4~~
 - ~~(73) (72) zinc: 5.0~~
- (h) Class GSA Standards. The standards for this class shall be the same as those for Class GA except as follows:
- (1) chloride: allowable increase not to exceed 100 percent of the natural quality concentration.
 - (2) total dissolved solids: 1000 mg l.
- (i) Class GC Waters.
- (1) The concentrations of substances which, at the time of classification exceed water quality standards, shall not be permitted to increase. For all other substances, concentrations shall not be caused or permitted to exceed the established standard.
 - (2) The concentrations of substances which, at the time of classification, exceed water quality standards shall not cause or contribute to the contravention of groundwater or surface water quality standards in adjoining waters of a different class.

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- (3) Concentrations of specific substances, which exceed the established standard at the time of classification, shall be listed in Section .0300 of this Subchapter.

Statutory Authority G.S. 143-214.1; 143B-282(2).

SUBCHAPTER 2N - UNDERGROUND STORAGE TANKS

SECTION .0700 - RELEASE RESPONSE AND CORRECTIVE ACTION FOR UST SYSTEMS CONTAINING PETROLEUM OR HAZARDOUS SUBSTANCES

.0707 CORRECTIVE ACTION PLAN

The provisions for a "Corrective action plan" contained in 40 CFR 280.66 (Subpart F) have been adopted incorporated by reference including any subsequent amendments and editions with the exception of the following Paragraph. This material is available for inspection at the Department of Environment, Health, and Natural Resources, Division of Environmental Management, Groundwater Section, 512 North Salisbury Street, Raleigh, North Carolina. Copies of 40 CFR Parts 260 to 299 may be obtained from the Superintendent of Documents, Government Printing Office, Washington, D.C., 20402 at a cost of thirty one dollars (\$31.00). in accordance with G.S. 150B-14(c), except that:

(1) 40 CFR 280.66(a) has been rewritten to read: "At any point after reviewing the information submitted in compliance with 40 CFR 280.61 through 40 CFR 280.63, the Division may require owners and operators to submit additional information or to develop and submit a corrective action plan for responding to contaminated soils and groundwater. If a plan is required, owners and operators must prepare a plan in accordance with the requirements specified in 15A NCAC 2L .0106, and submit it according to a schedule and format established by the Division. Owners and operators are responsible for submitting a plan that provides for adequate protection of human health and the environment as determined by the Division, and must modify their plan as necessary to meet this standard". and

- (2) In 40 CFR 280.66(c) the words "schedule and in a format established by the implementing agency," are replaced by the words "special order, consent special order, or similar document."

Statutory Authority G.S. 143-215.3(a)(15); 143B-282(2)(h).

* * * * *

Notice is hereby given in accordance with G.S. 150B-21.2 that the EHNRR - Environmental Management Commission intends to amend rule(s) cited as 15A NCAC 2M .0102; .0303; .0602 - .0604; .0701 - .0702.

The proposed effective date of this action is June 1, 1992.

The public hearing will be conducted at 2:00 p.m. on February 27, 1992 at the Archdale Building, Ground Floor Hearing Room, 512 N. Salisbury Street, Raleigh, NC.

Reason for Proposed Action: These rules are being amended to implement S.B. 344 which transferred the Clean Water Revolving Loan and Grant Program to the Department of Environment, Health, and Natural Resources; to update the name of the receiving agency; and to provide clarification of text.

Comment Procedures: Any person or organization desiring to make oral comments at the hearing should register to do so at the hearing. Statements will be limited to 10 minutes, and one typewritten copy of any such statement should be submitted to the panel conducting the hearing. Any additional comments should be forwarded to the Division of Environmental Management by March 4, 1992 at the following address:

*Division of Environmental Management
Attention: Coy M. Batten
P. O. Box 29535
Raleigh, North Carolina 27626-0535
Telephone: (919) 733-6900*

CHAPTER 2 - ENVIRONMENTAL MANAGEMENT

SUBCHAPTER 2M - NORTH CAROLINA WATER POLLUTION CONTROL REVOLVING FUND

SECTION .0100 - GENERAL PROVISIONS

.0102 DEFINITIONS

In addition to the definitions in G.S. 159G-3, the following definitions will apply to this Chapter:

- (1) "Act" means North Carolina Clean Water Revolving Loan and Grant Act of 1987, G.S. 159G.
- (2) "Award" means the offer by the receiving agency to enter into a loan commitment for a specified amount.
- (3) "Award of contract" means the award by the loan recipient to a contractor of a contract to construct the project as bid.
- (4) "Bid" means the amount of money for which a contractor offers to construct a project.
- (5) "Contingency costs" means unforeseen costs or situations not included in the estimate of project costs.
- (6) "Commitment" means a binding agreement to pay loan funds at intervals as expenses are incurred.
- (7) "Date of Completion" means the date on which operations of the treatment works are initiated or capable of being initiated, whichever is earlier.
- (8) "Environmental Protection Agency" means the Federal agency established pursuant to Reorganization Plan No. 3 of 1970, effective December 1, 1970.
- (9) "Federal capitalization grant" means a grant by the Environmental Protection Agency to the state for the purpose of providing loan funds to finance publicly owned wastewater facilities.
- (10) "Federal Clean Water Act" (CWA) means the Act of Congress designated as P.L. 92-500, approved October 18, 1972, as amended from time to time.
- (11) "Inspection" means inspection or inspections of a project to determine percentage completion of the project; conformance with plans and specifications; and compliance with applicable federal, state, and local laws.
- (12) "Intended Use Plan" means an annual plan to identify the proposed uses of the amounts available in the Water Pollution Control Revolving Fund.
- (13) "Project" means the work described in the application for a loan under this Chapter.
- (14) "Receiving Agency" means the Construction Grants and Loans Section of the Division of Environmental Management.

Statutory Authority G.S. 159G-3; 159G-15.

SECTION .0300 - ELIGIBILITY REQUIREMENTS

.0303 LIMITATION OF LOANS

The maximum principal amount of loan from any fiscal year's allocation made to any one local government unit during any fiscal year shall be seven and one-half million dollars (\$7,500,000).

Statutory Authority G.S. 159G-5(c); 159G-15.

SECTION .0600 - LOAN AWARD; COMMITMENT; AND DISBURSEMENT OF LOANS

.0602 CERTIFICATION OF ELIGIBILITY

(a) The receiving agency shall ~~forward to the Office of State Budget and Management~~ create a certificate of eligibility and ~~notification of commitment~~ for each application for which a loan commitment has been made.

(b) The certificate of eligibility shall indicate that the applicant meets all eligibility criteria and that all other requirements of the Act and of the rules governing the account have been met.

(c) The ~~notification of commitment~~ certificate of eligibility shall also indicate the amount and the fiscal year of the loan commitment.

Statutory Authority G.S. 159G-12; 159G-15.

.0603 CRITERIA FOR LOAN ADJUSTMENTS

~~(a)~~ Upon receipt of bids the debt instrument is negotiated. It may adjust the loan commitment as follows:

- (1) The loan commitment may be decreased, ~~provide~~ provided the project cost as bid is less than the estimated project cost, and the receiving agency approves the loan commitment decrease.
- (2) Loan commitments may be increased, to a maximum of ~~40 percent~~ five hundred thousand dollars (\$500,000), ~~whichever is greater~~, provided:
 - (a) ~~(A)~~ the project cost as bid is greater than the estimated project cost;
 - (b) ~~(B)~~ the project as bid is in accordance with the project for which the loan commitment was made;
 - (c) ~~(C)~~ the receiving agency has reviewed the bids and determined that substantial cost savings would not be available through project revisions without jeopardizing the integrity of the project; and
 - (d) ~~(D)~~ adequate funds are available in the account from which the loan was awarded;
 - ~~(E)~~ (e) increases greater than 10 percent of the loan commitment shall be approved by the Local Government Commission and the ~~Office of State Budget and Management~~ Environmental Management Commission.

PROPOSED RULES

Statutory Authority G.S. 159G-12; 159G-15.

.0604 DISBURSEMENT OF LOANS

(a) Disbursement of loan monies shall be made at intervals as work progresses and expenses are incurred. No disbursement shall be made until the receiving agency receives satisfactory documentation of incurred costs. At no time shall disbursement exceed the allowable costs which have been incurred at that time.

(b) Project inspection will confirm work progress, and a final inspection is required prior to final disbursement of loan monies.

(c) ~~The receiving agency will notify the Office of State Budget and Management Fiscal Management Office of the Department of Environment, Health, and Natural Resources to make loan disbursements. A check in the amount of the disbursement authorized by the receiving agency will be forwarded written to the loan recipient by the Office of State Budget and Management. Fiscal Management Office. The receiving agency will be notified by the Office of State Budget and Management as disbursements are made, and forwarded to the loan recipient by the receiving agency.~~

Statutory Authority G.S. 159G-5(c); 159G-12; 159G-15.

SECTION .0700 - LOAN REPAYMENTS

.0701 INTEREST RATES

The interest rate to be charged on loans under this Chapter will be set on March 31 of each year at the lesser of four percent per annum or one-half the prevailing national market rate as derived from the Bond Buyer's 20-Bond Index in accordance with G.S. 159G-4(c). The interest rate will be the same for all new loans awarded approved from this account during any given fiscal year for the following 12 months.

Statutory Authority G.S. 159G-4(c); 159G-5(c); 159G-15.

.0702 REPAYMENT OF PRINCIPAL AND INTEREST ON LOANS

(a) The debt instrument setting the terms and conditions of repayment of loans under this Chapter will be established after the receipt of bids. Adjustments to the loan may only be made under Rule .0603 of this Chapter.

(b) The maximum maturity on any loan under this Chapter shall not exceed 20 years.

(c) Interest on the debt instrument shall begin to accrue on the original date that a project's contracts are scheduled to be completed. Extensions of this deadline are not allowed.

(d) All principal payments will be made annually on or before May 1. The first principal payment is due not earlier than six months after the date of completion of the project.

(e) All interest payments will be made semiannually on or before May 1 and November 1 of each year. The first interest payment is due not earlier than six months after the date of completion of the project.

(f) All principal and interest payments shall be made payable to the Water Pollution Control Revolving Fund, and submitted to the ~~Office of State Budget and Management~~ receiving agency.

Statutory Authority G.S. 159G-13; 159G-15; 159G-18.

Notice is hereby given in accordance with G.S. 150B-21.2 that the North Carolina Wildlife Resources Commission intends to amend rule(s) cited as 15 NCAC 10C .0305.

The proposed effective date of this action is April 1, 1992.

The public hearing will be conducted at 10:00 a.m. on January 30, 1992 at Room 386, Archdale Building, 512 N. Salisbury St., Raleigh, NC 27604-1188.

Reason for Proposed Action: To provide consistent creel and size limits and seasons for striped bass and consistent creel and size limits for red drum.

Comment Procedures: Interested persons may present their views either orally or in writing at the hearing. In addition, the record of hearing will be open for receipt of written comments from January 15, 1992 to February 15, 1992. Such written comments must be delivered or mailed to the N.C. Wildlife Resources Commission, 512 N. Salisbury St., Raleigh, NC 27604-1188.

CHAPTER 10 - WILDLIFE RESOURCES AND WATER SAFETY

SUBCHAPTER 10C - INLAND FISHING REGULATIONS

PROPOSED RULES

SECTION .0300 - GAME FISH

.0305 OPEN SEASONS: CREEL AND SIZE LIMITS

(a) Generally. Subject to the exceptions listed in Paragraph (b) of this Rule, the open seasons and creel and size limits are as indicated in the following table:

GAME FISHES	DAILY CREEL LIMITS	MINIMUM SIZE LIMITS	OPEN SEASON
Mountain Trout: Wild Trout Waters	4	7 in. (exc. 15)	All year (exc. 2)
Hatchery Sup- ported Trout Waters	7	None	All year, except March 1 to 7:00 a.m. on first Saturday in April (excs. 2 & 3)
Muskellunge and Tiger Musky	2	30 in.	ALL YEAR
Chain Pickerel (Jack)	None	None	ALL YEAR
Walleye	8 (excs. 9 & 10)	None (exc. 9)	ALL YEAR
Sauger	8	15 in.	ALL YEAR
Black Bass: Largemouth	5 (exc. 10)	14 in. (excs. 4, 8 & 11)	ALL YEAR (exc. 13)
Smallmouth and Spotted	5 (exc. 10)	12 in. (excs. 4, 8 & 11)	ALL YEAR
White Bass	25	None	ALL YEAR
Sea Trout (Spot- ted or Speckled)	None	12 in.	ALL YEAR
Flounder	None	13 in.	ALL YEAR
Red drum (channel bass, red fish, puppy drum)	None	14 in.	ALL YEAR
Striped Bass and their hybrids (Morone Hybrids)	8 aggregate (excs. 1 & 6)	16 in. (excs. 1, 6 & 12)	ALL YEAR (excs. 6 & 16)
Kokanee Salmon	7	None	ALL YEAR
Panfishes	None (excs. 5 & 14)	None (exc. 14)	ALL YEAR (exc. 5)

PROPOSED RULES

NONGAME FISHES	None	None	ALL YEAR (exc. 7)
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(b) Exceptions

- (1) In the Dan River upstream from its confluence with Bannister River to the Brantly Steam Plant Dam, and in John H. Kerr, Gaston, and Roanoke Rapids Reservoirs, the creel limit on striped bass and Morone hybrids is four in the aggregate and the minimum size limit is 20 inches.
 - (2) In designated public mountain trout waters the season for taking all species of fish is the same as the trout fishing season. There is no closed season on taking trout from Nantahala River and all tributaries (excluding impoundments) upstream from Nantahala Lake, and the impounded waters of power reservoirs and municipally-owned water supply reservoirs open to the public for fishing.
 - (3) Under an agreement with Tennessee, the minimum size limit on trout in Calderwood Reservoir is seven inches.
 - (4) Bass taken from streams designated as public mountain trout waters or from Calderwood Reservoir may be retained without restriction as to size limit.
 - (5) On Mattamuskeet Lake, special federal regulations apply.
 - (6) In the inland fishing waters of Cape Fear, Neuse and Tar Rivers and their tributaries extending upstream to the first impoundment, the daily creel limit for striped bass and their hybrids is one fish and the minimum length limit is 18 inches. In the Roanoke River up to the first impoundment, from July 1 through March 31 and June 1 through June 30 the daily creel limit for stripped bass is one fish and the minimum length limit is 18 inches; from April 1 to May 31 the daily creel limit is three fish, no fish between the lengths of 22 inches and 27 inches may be retained, and the minimum length limit is 16 inches, except no fish may be retained in Roanoke River and its tributaries including Cashie, Middle and Eastmost rivers from May 1 to December 31, 1991.
 - (7) See 15A NCAC 10C .0407 for open seasons for taking nongame fishes by special devices.
 - (8) The maximum combined number of black bass of all species that may be retained per day is five fish, no more than two of which may be smaller than the applicable minimum size limit. The minimum size limit for all species of black bass is 14 inches, with no exception in Lake Luke Marion in Moore County, in Reedy Creek Park lakes in Mecklenburg County, and in Currituck Sound and tributaries north of Wright Memorial Bridge; in North River and tributaries in Currituck and Camden Counties north of a line between Camden Point and the end of SR 1124. In and west of Madison, Buncombe, Henderson and Polk Counties the minimum size limit is 12 inches. In B. Everett Jordan Reservoir a minimum size limit of 16 inches, with no exception, applies to largemouth bass. In Falls of Neuse Reservoir, east of SR 1004, Sutton Lake and Tuckertown Lake no black bass between the lengths of 12 inches and 16 inches may be retained, and the minimum size limit for black bass is 16 inches, except that the daily creel may contain two black bass of less than 12 inches in length. In W. Kerr Scott Reservoir there is no minimum size limit for spotted bass.
 - (9) A minimum size limit of 15 inches applies to walleye taken from Lake James and its tributaries, and the daily creel limit for walleye is four fish in Linville River upstream from the NC 126 bridge above Lake James.
 - (10) The creel limit for black bass and walleye taken from Calderwood Reservoir is 10.
 - (11) The minimum size limit for all black bass, with no exception, is 18 inches in the following trophy bass lakes:
 - (A) Cane Creek Lake in Union County; and
 - (B) Lake Thom-A-Lex in Davidson County.
 - (12) In all impounded inland waters and their tributaries, except those waters described in Exceptions (1), the daily creel limit of striped bass and their hybrids may include not more than two fish of smaller size than the minimum size limit.
 - (13) In Cane Creek Reservoir (Orange County) the season for taking largemouth bass is closed.
 - (14) In Lake Tillery, Falls Lake, Badin Lake, and Tuckertown Lake a daily creel limit of 20 fish and a minimum size limit of 8 inches apply to crappie.
 - (15) In Slick Rock Creek the minimum size is 7 inches for brook trout and 10 inches for brown and rainbow trout.
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- (16) In designated inland fishing waters of Roanoke Sound, Croatan Sound, Albemarle Sound, Chowan River, Currituck Sound, Alligator River, Scuppernong River, and their tributaries (excluding the Roanoke River and Cashie River and their tributaries), striped bass fishing season, size limits and creel limits shall be the same as those established by duly adopted rules of is ~~closed when adjacent joint or coastal fishing waters are closed to hook and line fishing for striped bass~~ by the Marine Fisheries Commission.

Statutory Authority G.S. 113-134; 113-292; 113-304; 113-305.

TITLE 19A - DEPARTMENT OF TRANSPORTATION

Notice is hereby given in accordance with G.S. 150B-21.2 that the Division of Motor Vehicles intends to amend rule(s) cited as 19A NCAC 3D .0801.

The proposed effective date of this action is April 1, 1992.

Instructions on how to demand a public hearing: The agency will schedule a public hearing on the proposed rule if it receives a written request for a hearing within fifteen days from the date the proposed text is published. The request for hearing should be mailed to: William R. Stout, Motor Carrier Safety Unit, 1100 New Bern Avenue, Raleigh, N.C. 27697.

Reason for Proposed Action: N.C.G.S. 20-183.2(a) as amended effective June 25, 1991 provides that the Commissioner of the Division of Motor Vehicles may designate the place on a vehicle where a current approved federal inspection certificate must be displayed. This Rule designates the location of the certificate.

Comment Procedures: Written comments on the proposed rule may be submitted by mailing the comments to the following address within thirty days after the proposed text is published or until a public hearing is held, whichever is longer: William R. Stout, Motor Carrier Safety Unit, 1100 New Bern Avenue, Raleigh, N.C. 27697.

Editor's Note: This Rule has been filed as a temporary amendment to be effective on February 1, 1992 for a period of 180 days to expire on July 30, 1992.

CHAPTER 3 - DIVISION OF MOTOR VEHICLES

SUBCHAPTER 3D - ENFORCEMENT SECTION

SECTION .0800 - SAFETY RULES AND REGULATIONS

.0801 SAFETY OF OPERATION AND EQUIPMENT

(a) The rules and regulations adopted by the U.S. Department of Transportation relating to safety of operation and equipment (49 CFR Parts 390-398 and amendments thereto) shall apply to all for-hire motor carrier vehicles, whether common carriers, contract carriers or exempt carriers and all private motor carriers, while engaged in interstate commerce over the highways of the State of North Carolina.

(b) The rules and regulations adopted by the U.S. Department of Transportation relating to safety of operation and equipment (49 CFR Parts 390-398 and amendments thereto) shall apply to all for-hire motor carrier vehicles, whether common carriers, contract carriers or exempt carriers and all private motor carrier vehicles engaged in intrastate commerce over the highways of the State of North Carolina if such vehicles have a GVWR of greater than 26,000 pounds; are designed to transport 16 or more passengers, including the driver; or transport hazardous materials required to be placarded pursuant to 49 CFR 170-190. Provided, the following exceptions shall also apply to all intrastate motor carriers:

- (1) An intrastate motor carrier driver may not drive more than 12 hours following eight consecutive hours off duty; or for any period after having been on duty 16 hours following eight consecutive hours off duty; or after having been on duty 70 hours in seven consecutive days; or more than 80 hours in eight consecutive days. An intrastate driver will be determined by his previous seven days of operation.
- (2) Persons who otherwise qualify medically to operate a commercial motor vehicle within the State of North Carolina will be exempt from provisions of Part 391.11(b)(1) and Part 391.41(b)(1) through (11) and therefore will be authorized for intrastate operation if licensed prior to March 30, 1992, are approved by an Exemption Review Officer appointed by the Commissioner of Motor Vehicles and meet all other requirements of this

Section. These drivers shall continue to be exempt upon completion of a biennial medical examination indicating the condition has not worsened or no new disqualifying conditions have been diagnosed and upon continued approval of an Exemption Review Officer.

(c) The rules and regulations adopted by the U. S. Department of Transportation relating to inspection, repair and maintenance of motor vehicles (49 CFR Part 396.17 through 396.23 and including Appendix G, and amendments thereto) shall apply to all for-hire motor carrier vehicles, whether common carriers, contract carriers or exempt carriers and all private motor carrier vehicles engaged in intrastate commerce over the highways of the State of North Carolina if such vehicles have a GVWR of greater than 10,000 pounds. Provided, any farm vehicle shall be exempt from the requirements of this Paragraph if:

- (1) It is being operated by a farmer (or a person under the direct control of the farmer) as a private motor carrier of property;
- (2) It is being used to transport either:
 - (A) agricultural products, or
 - (B) farm machinery, farm supplies, or both, to and from a farm;
- (3) It is being operated solely within this State and within 150 air-miles of the farmer's farm;
- (4) It is not being used in the operation of a for-hire motor carrier; and
- (5) It is not carrying hazardous materials of a type or quantity that requires the vehicle to be placarded in accordance with 49 CFR 177.823.

(d) Every motor vehicle registered or required to be registered in North Carolina and subject to the inspection requirements of the Federal Motor Carrier Safety Regulations (49 CFR Part 396) must display a current approved federal inspection certificate when operated on the streets and highways of this State. On self-propelled vehicles the inspection certificate shall be located on the outside of the driver's door exclusive of the window or rear view mirror. On trailers and semitrailers, the inspection certificate shall be located on the left side as near as possible to the outside lower front of the vehicle. The inspection certificate shall contain at least the following legible information:

- (1) The date of inspection;
- (2) Name and address of the motor carrier or other entity where the inspection report required by 49 CFR 396.21(a) is maintained;

(3) Information uniquely identifying the vehicle inspected if not clearly marked on the vehicle; and

(4) A certification that the vehicle has passed an inspection in accordance with 49 CFR 396.17.

Statutory Authority G.S. 20-384; 20-183.2(a).

TITLE 21 - LICENSING BOARD

Notice is hereby given in accordance with G.S. 150B-21.2 that the North Carolina Real Estate Commission intends to adopt rule(s) cited as 21 NCAC 58A .0612, .0613; 58D .0601 - .0606; 58D .0701 and amend rule(s) cited as 21 NCAC 58A .0601, .0610, .0902; 58C .0501; 58D .0202.

The proposed effective date of this action is May 1, 1992.

The public hearing will be conducted at 1:00 p.m. on February 19, 1992 at the Office of the North Carolina Real Estate Commission, 1313 Navaho Drive, Raleigh, NC 27609.

Reason for Proposed Action: To clarify by amendment five previously adopted rules; and to set forth procedures by which the Real Estate Commission and Appraisal Board will conduct Administrative Hearings and consider petitions for Declaratory Rulings.

Comment Procedures: Comments regarding the rules may be made orally or submitted in writing at the public hearing. Written comments not submitted at the hearing may be delivered to the North Carolina Real Estate Commission, Post Office Box 17100, Raleigh, North Carolina 27619, so as to be received by the hearing date.

CHAPTER 58 - REAL ESTATE COMMISSION

SUBCHAPTER 58A - REAL ESTATE BROKERS AND SALESMEN

SECTION .0600 - ADMINISTRATIVE HEARINGS

.0601 FORM OF COMPLAINTS AND OTHER PLEADINGS

(a) There shall be no specific form required for complaints. To be sufficient, a complaint shall be in writing, identify the respondent licensee and shall reasonably apprise the Commission of the facts which form the basis of the complaint.

(b) When investigating a complaint, the scope of the Commission's investigation shall not be limited only to matters alleged in the complaint. In addition, a person making a complaint to the Commission may change his complaint by submitting the changes to the Commission in writing.

(c) When a complaint is not verified by the person making the complaint, the Commission, ~~in its discretion, through its legal counsel,~~ may consider the complaint on its own motion.

(d) There shall be no specific forms required for answers, motions, or other pleadings relating to contested cases before the Commission, except they shall be in writing. To be sufficient, the document must reasonably apprise the Commission of the matters it alleges or answers. To be considered by the Commission, every answer, motion, request or other pleading must be submitted to the Commission in writing or made during the hearing as a matter of record.

(e) Hearings in contested cases before the Commission shall be conducted according to the provisions of Article 3A of Chapter 150B of the General Statutes of North Carolina.

(f) Persons who make complaints are not parties to contested cases, but may be witnesses.

Statutory Authority G.S. 93A-6(a); 150B-38(h).

.0610 SUBPOENAS

(a) The ~~executive director~~ Executive Director of the commission ~~Commission and its Legal Counsel~~ shall have the authority to issue subpoenas in the name of the Commission. In the ~~executive director's~~ Executive Director's absence, the recording secretary of the Commission shall have the authority to issue subpoenas in the name of the Commission.

(b) The Commission member designated to preside over a contested case shall also have the authority to issue subpoenas relating to that contested case.

(c) ~~A subpoena may be revoked only by the issuing officer, provided however, when the Commission has ordered a hearing in a contested case, a subpoena issued requiring the testimony of a witness or the production of evidence in connection with the hearing in that case may be revoked only by the member designated to preside over the hearing.~~

Statutory Authority G.S. 93A-6(a); 150B-38(h).

.0612 PRESIDING OFFICER

The Commission may designate any of its members to preside over the hearing in a contested case. When no designation is made, the

Chairman of the Commission shall preside, or, in his absence, the Vice Chairman shall preside. The presiding officer shall rule on motions or other requests made in a contested case prior to the conduct of the hearing in that case except when the ruling on the motion would be dispositive of the case. When the ruling on a motion or request would be dispositive of the case, the presiding officer shall make no ruling and the motion or request shall be determined by a majority of the Commission.

Statutory Authority G.S. 93A-3(c); 150B-40(b).

.0613 SCOPE

The provisions of this Section shall apply to contested cases heard by the Real Estate Commission only and shall not apply to hearings conducted by the Real Estate Appraiser Board pursuant to Article 5 of Chapter 93A of the General Statutes.

Statutory Authority G.S. 93A-3(c).

SECTION .0900 - DECLARATORY RULINGS

.0902 REQUESTS FOR RULINGS: DISPOSITION OF REQUESTS

(a) All requests for declaratory rulings shall be written and filed with the Commission. The request must contain the following information:

- (1) the name, address and signature of petitioner;
- (2) a concise statement of the manner in which petitioner is aggrieved by the rule or statute in question, or its potential application to him;
- (3) a statement of the interpretation given the statute or rule in question by petitioner;
- (4) a statement of the reasons, including any legal authorities, in support of the interpretation given the statute or rule by petitioner.

(b) The Commission shall either deny the request, stating the reasons therefor, or issue a declaratory ruling. When, in its discretion, the Commission determines that the issuance of a declaratory ruling is undesirable, it may refuse to issue such ruling.

(c) The Commission shall not issue a declaratory ruling when the petitioner or his or her request is the subject of, or materially related to, an investigation by the Real Estate Commission or contested case before the Commission.

Statutory Authority G.S. 93A-3(c); 150B-17.

SUBCHAPTER 58C - REAL ESTATE AND APPRAISAL EDUCATION

**SECTION .0500 - APPRAISAL CONTINUING
EDUCATION COURSES**

.0501 PURPOSE AND APPLICABILITY

This Section establishes minimum standards for appraisal continuing education courses authorized by G.S. 93A-74(b) and required by Rule .0204 of Subchapter 58D. These standards must be satisfied in order for course sponsors to obtain and maintain approval of their courses for appraiser continuing education credit. Except as provided in Rule .0502(a) of this Section, any school, organization, agency, individual or other entity is eligible to become a course sponsor. Course sponsors must obtain course approval by from the Commission prior to conducting the course for continuing education credit and prior to advertising or otherwise representing that a course is or may be approved for continuing education credit in North Carolina. To request credit for a continuing education course which has not been approved by the Commission, a licensee or certificate holder must follow the procedure set forth in Rule .0204(f) of Subchapter 58D.

Statutory Authority G.S. 93A-75(c); 93A-77.

**SUBCHAPTER 58D - REAL ESTATE
APPRAISERS**

**SECTION .0200 - APPRAISER LICENSING AND
CERTIFICATION**

.0202 CHARACTER

(a) At a meeting of the Commission following each real estate appraiser licensing or certification examination, the applicants who have passed the examination shall be considered for licensing or certification. When the moral character of an applicant is in question, action by the Commission will be deferred until the applicant has affirmatively demonstrated that he possesses the requisite truthfulness, honesty and integrity.

(b) When the moral character of an applicant is in question, the Commission shall notify the applicant and the applicant shall be entitled to demonstrate his character and fitness for licensure or certification at a hearing before the ~~Commission~~ Board.

(c) Notice to the applicant that his moral character is in question shall be in writing, sent by certified mail, return receipt requested, to the address shown upon the application. The applicant shall have 60 days from the date of receipt of this notice to request a hearing before the ~~Commission~~ Board. Failure to request a hearing within this time shall constitute a waiver of

the applicant's right to a hearing on his application for licensing or certification, and the application shall be deemed denied. Nothing in this Rule shall be interpreted to prevent an applicant from re-applying for licensure or certification.

Statutory Authority G.S. 93A-73(c); 93A-77.

**SECTION .0600 - ADMINISTRATIVE
HEARINGS**

.0601 SCOPE

The provisions of this Section shall apply to contested cases heard by the Real Estate Appraiser Board only and shall not apply to hearings conducted by the Real Estate Commission pursuant to Articles 1, 2, 3, and 4 of Chapter 93A of the General Statutes.

Statutory Authority G.S. 93A-77; 150B-38(h).

**.0602 FORM OF COMPLAINTS AND
OTHER PLEADINGS**

(a) There shall be no specific form required for complaints. To be sufficient, a complaint shall be in writing, identify the respondent licensed or certified appraiser and shall reasonably apprise the Board of the facts which form the basis of the complaint.

(b) When investigating a complaint, the scope of the investigation shall not be limited to the persons or transactions described or alleged in the complaint. Persons making complaints may at any time submit additional information or may otherwise amend their complaints.

(c) When a complaint is not verified by the person making the complaint, the Board may consider the complaint on its own motion.

(d) Persons who make complaints are not parties to contested cases heard by the Board, but may be witnesses in the cases.

(e) There shall be no specific form required for answers, motions or other pleadings relating to contested cases before the Board, except they shall be in writing. To be sufficient, the document must identify the case to which it refers and reasonably apprise the Board of the matters it alleges, answers, or requests. In lieu of submission in writing, motions, requests and other pleadings may be made on the record during the course of the hearing before the Board.

(f) Hearings in contested cases before the Board shall be governed by the provisions of Article 3A of Chapter 150B of the General Statutes.

Statutory Authority G.S. 93A-77; 150B-38(h).

.0603 PRESIDING OFFICER

The Appraisal Board may designate any of its members to preside over the hearing in a contested case. When no designation is made, the Chairman of the Board shall preside, or, in his absence, the Vice Chairman shall preside. The presiding officer shall rule on motions or other requests made in a contested case prior to the conduct of the hearing in that case except when the ruling on the motion would be dispositive of the case. When the ruling on a motion or request would be dispositive of the case, the presiding officer shall make no ruling and the motion or request shall be determined by a majority of the Board.

Statutory Authority G.S. 93A-77; 150B-38(h).

.0604 SUBPOENAS

(a) The Executive Director of the Real Estate Commission and the Commission's Legal Counsel shall have the authority to issue subpoenas in the name of the Board. In the Executive Director's absence, the recording secretary of the Commission shall have the authority to issue subpoenas in the name of the Board.

(b) The presiding officer in a contested case shall also have the authority to issue subpoenas relating to that contested case.

Statutory Authority G.S. 93A-77; 150B-38(h).

.0605 FINAL DECISIONS

(a) If, after the conclusion of a hearing in a contested case the Board determines to take disciplinary action against a licensed or certified appraiser, the Board shall direct the Real Estate Commission to issue a final decision and order in conformity with the Board's determination.

(b) If the matter in issue in a contested case before the Board is the moral character and fitness for licensure or certification of any applicant, after the conclusion of the hearing the Board shall determine whether or not the applicant is morally fit and shall direct the Commission to issue or deny the license or certificate in conformity with the Board's determination.

Statutory Authority G.S. 93A-77; 150B-38(h).

.0606 PETITION TO REOPEN PROCEEDING

(a) After a final decision has been reached by the Board in a contested case, a party may peti-

tion the Board to reconsider a case. Petitions will not be granted except when the petitioner can show that the reasons for reconsidering the case are to introduce newly discovered evidence which was not presented at the initial hearing because of some justifiable, excusable or unavoidable circumstance. Upon the running of the 30 day period for seeking judicial review, such petitions will have no effect.

(b) Decisions on petitions to reopen cases are within the discretion of the Board.

(c) If, as a result of its reconsideration of a contested case, the Board modifies its original decision, it shall notify the Real Estate Commission which shall modify its action in conformity with the Board's ruling.

Statutory Authority G.S. 93A-77; 150B-38(h).

SECTION .0700 - DECLARATORY RULINGS

.0701 REQUESTS FOR RULINGS; DISPOSITION OF REQUESTS

(a) All requests for declaratory rulings shall be written and filed with the Board. The request must contain the following information:

- (1) the name, address and signature of petitioner;
- (2) a concise statement of the manner in which petitioner is aggrieved by the rule or statute in question, or its potential application to him;
- (3) a statement of the interpretation given the statute or rule in question by petitioner;
- (4) a statement of the reasons, including any legal authorities, in support of the interpretation given the statute or rule by petitioner.

(b) The Board shall either deny the request, stating the reasons therefor, or issue a declaratory ruling. When in its discretion, the Board determines that the issuance of a declaratory ruling is undesirable, it may refuse to issue such ruling.

(c) The Board shall not issue a declaratory ruling when the petitioner or his or her request is the subject of, or materially related to, an investigation by the Real Estate Commission or contested case before the Board.

Statutory Authority G.S. 93A-77; 150B-4.

RRC OBJECTIONS

The Rules Review Commission (RRC) objected to the following rules in accordance with G.S. 143B-30.2(c). State agencies are required to respond to RRC as provided in G.S. 143B-30.2(d).

Temporary Rules are noted by “”. These Rules have already gone into effect.*

ADMINISTRATION

State Construction

<i>1 NCAC 30F .0101 - Authority</i>	<i>RRC Objection</i>	<i>10/17/91</i>
<i>1 NCAC 30F .0103 - Definitions</i>	<i>RRC Objection</i>	<i>10/17/91</i>
<i>1 NCAC 30F .0202 - Pre-Bid Conferences and Site Reviews</i>	<i>RRC Objection</i>	<i>10/17/91</i>
<i>1 NCAC 30F .0301 - Definitions</i>	<i>RRC Objection</i>	<i>10/17/91</i>
<i>1 NCAC 30F .0302 - Overall Job Performance</i>	<i>RRC Objection</i>	<i>10/17/91</i>
<i>1 NCAC 30F .0303 - Interim Contractor Evaluation</i>	<i>RRC Objection</i>	<i>10/17/91</i>
<i>1 NCAC 30F .0305 - Report Compilation</i>	<i>RRC Objection</i>	<i>10/17/91</i>
<i>1 NCAC 30F .0401 - Post-Occupancy Evaluation</i>	<i>RRC Objection</i>	<i>10/17/91</i>
<i>1 NCAC 30F .0403 - Appeals of Assigned Eval or Disqual from Bidding</i>	<i>RRC Objection</i>	<i>10/17/91</i>

AGRICULTURE

Plant Industry

<i>2 NCAC 9M .0001 - Manufacturer Registration</i>	<i>RRC Objection</i>	<i>10/17/91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>10/17/91</i>
<i>2 NCAC 48A .1701 - Definitions</i>	<i>RRC Objection</i>	<i>10/17/91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>10/17/91</i>
<i>2 NCAC 48A .1702 - Noxious Weeds</i>	<i>RRC Objection</i>	<i>10/17/91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>10/17/91</i>
<i>2 NCAC 48A .1703 - Regulated Areas</i>	<i>RRC Objection</i>	<i>10/17/91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>10/17/91</i>
<i>2 NCAC 48A .1704 - Regulated Articles</i>	<i>RRC Objection</i>	<i>10/17/91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>10/17/91</i>
<i>2 NCAC 48E .0101 - Definitions</i>	<i>RRC Objection</i>	<i>10/17/91</i>
<i>Agency Revised Rule</i>	<i>RRC Objection</i>	<i>10/17/91</i>

CRIME CONTROL AND PUBLIC SAFETY

State Highway Patrol

<i>14A NCAC 9H .0304 - Notifying Registered Owner</i>	<i>RRC Objection</i>	<i>12/19/91</i>
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ECONOMIC AND COMMUNITY DEVELOPMENT

Credit Union Division

<i>4 NCAC 6C .0311 - Surety Bond and Insurance Coverage</i>	<i>RRC Objection</i>	<i>11/21/91</i>
<i>4 NCAC 6C .0401 - Delinquent Loans and Loan Losses</i>	<i>RRC Objection</i>	<i>11/21/91</i>
<i>4 NCAC 6C .0402 - Charge-Off of Uncollectible Loans</i>	<i>RRC Objection</i>	<i>11/21/91</i>
<i>4 NCAC 6C .0403 - Real Estate Loans</i>	<i>RRC Objection</i>	<i>11/21/91</i>
<i>4 NCAC 6C .1301 - Liquidity Reserves</i>	<i>RRC Objection</i>	<i>11/21/91</i>

Employment and Training

RRC OBJECTIONS

* 4 NCAC 20B .0903 - Allocation of Grants	ARRC Objection	8/22/91
No Response from Agency		9/19/91
No Response from Agency		10/17/91
* 4 NCAC 20B .0905 - Eligibility	ARRC Objection	8/22/91
No Response from Agency		9/19/91
No Response from Agency		10/17/91
* 4 NCAC 20B .0907 - Cost Limitations, Categories	ARRC Objection	8/22/91
No Response from Agency		9/19/91
No Response from Agency		10/17/91
* 4 NCAC 20B .0908 - Reporting	ARRC Objection	8/22/91
No Response from Agency		9/19/91
No Response from Agency		10/17/91
* 4 NCAC 20B .0909 - Performance Standards	ARRC Objection	8/22/91
No Response from Agency		9/19/91
No Response from Agency		10/17/91
* 4 NCAC 20B .0911 - Fund Availability	ARRC Objection	8/22/91
No Response from Agency		9/19/91
No Response from Agency		10/17/91

EDUCATION

Elementary and Secondary Education

16 NCAC 6B .0001 - School Bus Drivers	ARRC Objection	9/19/91
Agency Revised Rule	Obj. Removed	10/17/91
16 NCAC 6D .0103 - Graduation Requirements	ARRC Objection	9/19/91
No Response from Agency		10/17/91
* 16 NCAC 6E .0301 - Driver Training	ARRC Objection	8/22/91
Agency Responded		9/19/91
Agency Revised Rule	Obj. Removed	10/17/91

ENVIRONMENT, HEALTH, AND NATURAL RESOURCES

Adult Health

15A NCAC 16A .0804 - Financial Eligibility	ARRC Objection	1/18/91
No Response from Agency		2/25/91
Agency Responded	No Action	3/21/91
No Response from Agency	No Action	4/18/91
15A NCAC 16A .0806 - Billing the HIV Health Services Program	ARRC Objection	1/18/91
No Response from Agency		2/25/91
Agency Responded	No Action	3/21/91
No Response from Agency	No Action	4/18/91

Coastal Management

15A NCAC 7J .0301 - Who is Entitled to a Contested Case Hearing	ARRC Objection	9/19/91
No Response from Agency - Rule Returned to Agency		10/17/91
15A NCAC 7J .0302 - Petition for Contested Case Hearing	ARRC Objection	9/19/91
No Response from Agency - Rule Returned to Agency		10/17/91
15A NCAC 7J .0402 - Criteria for Grant or Denial of Permit Applications	RRC Objection	10/17/91
15A NCAC 7M .0201 - Declaration of General Policy	RRC Objection	10/17/91
15A NCAC 7M .0202 - Policy Statements	RRC Objection	10/17/91
15A NCAC 7M .0303 - Policy Statements	RRC Objection	10/17/91
15A NCAC 7M .0403 - Policy Statements	RRC Objection	10/17/91

RRC OBJECTIONS

15A NCAC 7M .0901 - Declaration of General Policy

RRC Objection 10/17/91

Environmental Management

15A NCAC 2D .1102 - Applicability

ARRC Objection 8/22/91

Agency Revised Rule

No Action 9/19/91

Obj. Removed 10/17/91

15A NCAC 2D .1208 - Operator Training Requirements

ARRC Objection 8/22/91

Agency Withdrew Rule

No Action 9/19/91

10/17/91

Forest Resources

15A NCAC 9C .1007 - America the Beautiful Grant Program

ARRC Objection 9/19/91

Agency Revised Rule

Obj. Removed 9/19/91

Health: Epidemiology

15A NCAC 19A .0202 - Control Measures - HIV

RRC Objection 10/17/91

15A NCAC 19H .0702 - Research Requests

RRC Objection 11/21/91

Sedimentation Control

15A NCAC 4A .0005 - Definitions

RRC Objection 12/19/91

15A NCAC 4C .0007 - Procedures: Notices

RRC Objection 12/19/91

Wildlife

15A NCAC 10A .1001 - Particular Offenses

ARRC Objection 9/19/91

Agency Revised Rule

Obj. Removed 9/19/91

HUMAN RESOURCES

Aging

10 NCAC 22M .0101 - Scope of Care Management

Agency Revised Rule

ARRC Objection 9/19/91

Obj. Removed 10/17/91

10 NCAC 22M .0102 - Definitions

Agency Revised Rule

ARRC Objection 9/19/91

Obj. Removed 10/17/91

10 NCAC 22M .0103 - Target Population

Agency Revised Rule

ARRC Objection 9/19/91

Obj. Removed 10/17/91

10 NCAC 22M .0203 - Assessment and Reassessment

Agency Revised Rule

ARRC Objection 9/19/91

Obj. Removed 10/17/91

10 NCAC 22M .0204 - Care Planning

Agency Revised Rule

ARRC Objection 9/19/91

Obj. Removed 10/17/91

10 NCAC 22N .0101 - Definitions for Confidentiality of Client Data

Agency Revised Rule

ARRC Objection 9/19/91

Obj. Removed 10/17/91

10 NCAC 22N .0205 - Security of Records

Agency Revised Rule

ARRC Objection 9/19/91

Obj. Removed 10/17/91

10 NCAC 22N .0208 - Client Access to Records

Agency Revised Rule

ARRC Objection 9/19/91

Obj. Removed 10/17/91

Children's Services

10 NCAC 411 .0304 - Receiving Info: Initiating Prompt Invest of Rpts

Agency Revised Rule

RRC Objection 10/17/91

Obj. Removed 10/17/91

RRC OBJECTIONS

10 NCAC 411 .0406 - Responsibility for Training of Team Members	ARRC Objection	7/18/91
Pending Correction		8/22/91
Agency Revised Rule	Obj. Removed	10/17/91

Economic Opportunity

* 10 NCAC 51F .0102 - Definitions	ARRC Objection	8/22/91
No Response from Agency		9/19/91
Agency Responded	No Action	10/17/91
* 10 NCAC 51F .0202 - Ineligible Activities	ARRC Objection	8/22/91
No Response from Agency		9/19/91
Agency Responded	No Action	10/17/91
* 10 NCAC 51F .0402 - Eligibility Requirements	ARRC Objection	8/22/91
No Response from Agency		9/19/91
Agency Responded	No Action	10/17/91
* 10 NCAC 51F .0501 - Grant Agreement	ARRC Objection	8/22/91
No Response from Agency		9/19/91
Agency Responded	No Action	10/17/91

Facility Services

10 NCAC 3C .1927 - Brain Injury Extended Care Phys Services	RRC Objection	10/17/91
Agency Revised Rule	Obj. Removed	10/17/91
10 NCAC 3J .2905 - Personal Hygiene Items	RRC Objection	10/17/91
10 NCAC 3J .3202 - Health Screening Form	RRC Objection	10/17/91
Agency Revised Rule	Obj. Removed	10/17/91
10 NCAC 3J .3926 - Health Screening Form	RRC Objection	10/17/91
Agency Revised Rule	Obj. Removed	10/17/91
10 NCAC 3U .0604 - General Safety Requirements	ARRC Objection	8/22/91
Agency Revised Rules	Obj. Removed	9/19/91
10 NCAC 3U .0804 - Infectious and Contagious Diseases	ARRC Objection	8/22/91
Agency Revised Rules	Obj. Removed	9/19/91

Individual and Family Support

10 NCAC 42H .0908 - Competency Requirements	RRC Objection	10/17/91
Agency Revised Rule	Obj. Removed	10/17/91
10 NCAC 42H .0909 - Time Frames for Completing Competency Req.	RRC Objection	10/17/91
Agency Revised Rule	Obj. Removed	10/17/91
10 NCAC 42H .0911 - Selection of Aides	RRC Objection	10/17/91
Agency Revised Rule	Obj. Removed	10/17/91
10 NCAC 42H .0913 - Quality Assurance Requirements	RRC Objection	10/17/91
Agency Revised Rule	Obj. Removed	10/17/91

Medical Assistance

10 NCAC 26H .0108 - Reimbursement Methods/State-Operated Facilities	RRC Objection	10/17/91
10 NCAC 50B .0305 - Deprivation	ARRC Objection	8/22/91
Agency Revised Rule	Obj. Removed	8/22/91

Mental Health: General

10 NCAC 14K .0103 - Definitions	ARRC Objection	9/19/91
Agency Revised Rule	Obj. Removed	9/19/91
10 NCAC 14K .0320 - Incident Reporting	ARRC Objection	9/19/91
Agency Revised Rule	Obj. Removed	9/19/91

RRC OBJECTIONS

10 NCAC 14K .0337 - Emergency Care Permission Agency Revised Rule	ARRC Objection 9/19/91 Obj. Removed 9/19/91
10 NCAC 14K .0351 - Administration of Medication Agency Revised Rule	ARRC Objection 9/19/91 Obj. Removed 9/19/91
10 NCAC 14M .0206 - Day Services Agency Revised Rule	ARRC Objection 9/19/91 Obj. Removed 9/19/91
10 NCAC 14M .0209 - Community Resources Agency Revised Rule	ARRC Objection 9/19/91 Obj. Removed 9/19/91
10 NCAC 14M .0409 - Community Resources Agency Revised Rule	ARRC Objection 9/19/91 Obj. Removed 9/19/91
10 NCAC 14O .0310 - Provision of Appropriate Activities Agency Revised Rule	ARRC Objection 9/19/91 Obj. Removed 9/19/91
10 NCAC 14P .0101 - Scope Agency Revised Rule	ARRC Objection 9/19/91 Obj. Removed 9/19/91
10 NCAC 14P .0102 - Definitions Agency Revised Rule	ARRC Objection 9/19/91 Obj. Removed 9/19/91
10 NCAC 14Q .0101 - Policy/Rights Restrictions/Interventions Agency Revised Rule	ARRC Objection 9/19/91 Obj. Removed 9/19/91
10 NCAC 14R .0104 - Seclusion/Restraint/Isolation Time Out Agency Revised Rule	ARRC Objection 9/19/91 Obj. Removed 9/19/91
10 NCAC 14R .0105 - Protective Devices Agency Revised Rule	ARRC Objection 9/19/91 Obj. Removed 9/19/91
10 NCAC 14S .0102 - Communication Rights Agency Responded	ARRC Objection 9/19/91 10/17/91
10 NCAC 14S .0103 - Living Environment Agency Responded	ARRC Objection 9/19/91 10/17/91

Mental Health: Other Programs

10 NCAC 18A .0127 - Certification Agency Revised Rule	RRC Objection 10/17/91 Obj. Removed 10/17/91
10 NCAC 18A .0128 - Out-of-Compliance Finding Agency Revised Rule	RRC Objection 10/17/91 Obj. Removed 10/17/91
10 NCAC 18A .0135 - Appeals and Waivers Agency Revised Rule	RRC Objection 10/17/91 Obj. Removed 10/17/91
10 NCAC 18L .0603 - Svc Purpose/Eligibility Requirements Agency Revised Rule	ARRC Objection 9/19/91 Obj. Removed 9/19/91
10 NCAC 18M .0704 - Staff Requirements Agency Revised Rule	ARRC Objection 9/19/91 Obj. Removed 9/19/91
10 NCAC 18Q .0809 - Agreement Between Resident and Program Agency Revised Rule	ARRC Objection 9/19/91 Obj. Removed 9/19/91

INSURANCE

Life and Health Division

11 NCAC 12 .0507 - Fraternal Orders: Societies and Associations	RRC Objection 12/19/91
11 NCAC 12 .1202 - Definitions	RRC Objection 12/19/91
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<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>9/19/91</i>
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<i>12 NCAC 4E .0106 - Manuals</i>	<i>ARRC Objection</i>	<i>9/19/91</i>
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<i>12 NCAC 4E .0203 - Non-Terminal Access</i>	<i>ARRC Objection</i>	<i>9/19/91</i>
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<i>12 NCAC 4E .0401 - DCI Terminal Operator</i>	<i>ARRC Objection</i>	<i>9/19/91</i>
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<i>12 NCAC 4F .0203 - Hit Confirmation</i>	<i>ARRC Objection</i>	<i>9/19/91</i>
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<i>12 NCAC 4F .0405 - Use CCH Lic/Non-Criminal Justice Emp Purposes</i>	<i>ARRC Objection</i>	<i>9/19/91</i>
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<i>12 NCAC 4F .0501 - Expungements</i>	<i>ARRC Objection</i>	<i>9/19/91</i>
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<i>12 NCAC 4G .0301 - Informal Hearing Procedure</i>	<i>ARRC Objection</i>	<i>9/19/91</i>
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Architecture

<i>21 NCAC 2 .0211 - Unauthorized Practice</i>	<i>RRC Objection</i>	<i>10/17/91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>10/17/91</i>
<i>21 NCAC 2 .0601 - Committee on Investigations</i>	<i>ARRC Objection</i>	<i>9/19/91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>9/19/91</i>

Certified Public Accountant Examiners

<i>* 21 NCAC 8G .0313 - Firm Name</i>	<i>RRC Objection</i>	<i>10/17/91</i>
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Electrolysis Examiners

<i>* 21 NCAC 19 .0202 - App/Licensure/ Electrologist Practicing 1/1/92</i>	<i>RRC Objection</i>	<i>11/21/91</i>
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Practicing Psychologists

<i>21 NCAC 54 .1701 - Information Required</i>	<i>ARRC Objection</i>	<i>8/22/91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>9/19/91</i>
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<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>9/19/91</i>

RRC OBJECTIONS

STATE PERSONNEL

Office of State Personnel

25 NCAC 1L .0301 - Purpose

RRC Objection 11/21/91

This Section of the Register lists the recent decisions issued by the North Carolina Supreme Court, Court of Appeals, Superior Court (when available), and the Office of Administrative Hearings which invalidate a rule in the North Carolina Administrative Code.

15A NCAC 7J .0301 - WHO IS ENTITLED TO A CONTESTED CASE HEARING

Thomas R. West, Administrative Law Judge with the Office of Administrative Hearings, declared Rule 15A NCAC 7J .0301(b) void as applied in *Lucy R. Hanson, Stanley P. and Jean C. Szwed, Petitioners v. N.C. Department of Environment, Health, and Natural Resources, Division of Coastal Management, Respondent* (91 EHR 0551, 91 EHR 0557).

15A NCAC 21D .0802(b)(2) - AVAILABILITY

Robert Roosevelt Reilly Jr., Administrative Law Judge with the Office of Administrative Hearings, declared Rule 15A NCAC 21D .0802(b)(2) void as applied in *Wilson's Supermarket #12, Petitioner v. Department of Environment, Health, and Natural Resources, Respondent* (91 EHR 0795).

15A NCAC 21D .0805 - DECISION

Thomas R. West, Administrative Law Judge with the Office of Administrative Hearings, declared Rule 15A NCAC 21D .0805 void as applied in *Glenn E. Davis/Davis Grocery, Petitioner v. N.C. Department of Environment, Health, and Natural Resources, Division of Maternal and Child Health, WIC Section, Respondent* (91 EHR 0694).

NORTH CAROLINA ADMINISTRATIVE CODE CLASSIFICATION SYSTEM

The North Carolina Administrative Code (NCAC) has four major subdivisions of rules. Two of these, titles and chapters, are mandatory. The major subdivision of the NCAC is the title. Each major department in the North Carolina executive branch of government has been assigned a title number. Titles are further broken down into chapters which shall be numerical in order. The other two, subchapters and sections are optional subdivisions to be used by agencies when appropriate.

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